

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES,) CR-09-00487-RMW
)
PLAINTIFF,)
) JUNE 5, 2012
VS.)
) VOLUME 2
ALBERT KE-JENG HU,)
)
DEFENDANT.) PAGES 1-195
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: U.S. ATTORNEY'S OFFICE
BY: JOSEPH FAZIOLI
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SAN JOSE, CA 95113

FOR THE DEFENDANT: ATTORNEY AT LAW
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OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

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SAN JOSE, CALIFORNIA

JUNE 5, 2012

P R O C E E D I N G S

(WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT
OF THE PRESENCE OF THE JURY:)

THE COURT: GOOD MORNING, EVERYBODY.

MR. FONG: GOOD MORNING, YOUR HONOR.

MR. FAZIOLI: GOOD MORNING, YOUR HONOR.

THE COURT: I JUST WANTED TO CHECK TO SEE
IF YOU HAD ANY PROBLEM WITH THE PREINSTRUCTIONS.

MR. LUCEY: WELL, YOUR HONOR, AT LEAST
FOR THE GOVERNMENT'S PART WE CONFERRED LAST NIGHT
AND ALSO TALKED WITH OUR SUPERVISOR IN THE OFFICE
AND WE WERE ALL IN AGREEMENT THAT WE WOULD PREFER
AND RECOMMEND AND PROPOSE WE KEEP THE SPECIFIC
UNANIMITY LANGUAGE IN REGARD TO THE WIRE FRAUD
CHARGES. I THINK MR. FONG IS IN AGREEMENT WITH
THAT.

THE COURT: THAT'S FINE. I HAVE NO
PROBLEM WITH THAT. LET'S SEE WHERE WE NEED TO
STICK IT IN.

MR. FAZIOLI: YOUR HONOR, I THINK IF THIS
IS THE PREINSTRUCTIONS, THE PRELIMINARY JURY
INSTRUCTIONS IT MIGHT BE APPROPRIATE TO PUT IT
AFTER UNDER THE CHARGE PRESUMPTION OF INNOCENCE
UNDER SUBSECTION ONE, THE DEFENDANT KNOWINGLY

1 DEvised THE SCHEME OR PLAN TO DEFRAUD.

2 I ALSO WANT TO BE CLEAR IT'S OUR
3 UNDERSTANDING AND MY UNDERSTANDING FROM OTHER CASES
4 IN THIS DISTRICT THAT IF THE JURY IS INSTRUCTED ON
5 A SPECIFIC UNANIMITY INSTRUCTION, THAT DOES NOT
6 NECESSARILY MEAN THAT ULTIMATELY WHEN THEY FILL OUT
7 THE VERDICT FORM THAT THEY ARE REQUIRED TO
8 SPECIFICALLY LIST THE SPECIFIC FALSE STATEMENT.
9 IT'S SIMPLY THAT THEY ARE INSTRUCTED AS TO THEY
10 HAVE TO AGREE TO A FALSE STATEMENT AS PART OF THEIR
11 DELIBERATIONS.

12 THE COURT: THAT'S CERTAINLY THE WAY IT'S
13 OFTEN DONE BUT WE CAN DEAL WITH THAT AT THE TIME.

14 MR. LUCEY: CERTAINLY.

15 MAYBE FOLLOWING THAT THEN.

16 THE COURT: I'M HAPPY WITH THE WAY -- I
17 THINK WE SHOULD IN THE FIRST PART, THE FALSE AND
18 FRAUDULENT PRETENSES, PROMISES, CHANGE THAT TO
19 CONSISTENT WITH THE UNANIMITY PORTION.

20 MR. FAZIOLI: YOU WANT TO TAKE OUT THE
21 WORD FRAUDULENT AND ADD FALSE OR FALSE AND
22 FRAUDULENT PROMISES?

23 THE COURT: FALSE AND FRAUDULENT PROMISE
24 OR STATEMENT.

25 MR. FONG: YOUR HONOR, I'M SORRY, I

1 DIDN'T MEAN TO INTERRUPT. I JUST NOTICED THAT THE
2 INSTRUCTION ON THE SECOND ELEMENT AS TO
3 MATERIALITY, I KNOW THAT CAME OUT OF THE MODEL
4 INSTRUCTION AND I CERTAINLY DON'T HAVE A PROBLEM
5 WITH THAT IN THE ABSTRACT.

6 HOWEVER, I DID SUBMIT A MORE SPECIFIC
7 INSTRUCTION THAT'S BASED ON THE CASE OF U.S. V.
8 NEDER, N-E-D-E-R, WHICH HAS EXCEPT IT ADDS CAPABLE
9 OF INFLUENCING.

10 IN ESSENCE, THE PERSON TO WHOM THE
11 ALLEGED MISREPRESENTATION WAS DIRECTED.

12 I HAVE A COPY OF THAT PROPOSED JURY
13 INSTRUCTION IF THE COURT WISHES TO SEE IT.

14 MR. FAZIOLI: YOUR HONOR, I THINK THE
15 COURT'S PROPOSED PRELIMINARY INSTRUCTION TRACKS THE
16 MODEL INSTRUCTION. OUR POSITION WOULD BE IT SHOULD
17 TRACK THE MODEL INSTRUCTION IN TERMS OF PRELIMINARY
18 INSTRUCTIONS.

19 THE COURT: I'M SATISFIED WITH THE WAY I
20 HAVE IT NOW, BUT WE CAN TALK ABOUT A MORE SPECIFIC
21 INSTRUCTION AT THE TIME AT THE CLOSE OF EVIDENCE IF
22 YOU THINK IT'S APPROPRIATE.

23 IT STRIKES ME THAT IT BASICALLY SAYS THE
24 SAME THING.

25 SO THE FIRST ELEMENT IS GOING TO READ,

1 FIRST, THE DEFENDANT KNOWINGLY DEvised A SCHEME OR
2 PLAN TO DEFRAUD OR A SCHEME OR PLAN FOR OBTAINING
3 MONEY OR PROPERTY BY MEANS OF FALSE OR FRAUDULENT
4 PROMISES OR STATEMENTS WITH ALL OF YOU AGREEING ON
5 AT LEAST ONE PARTICULAR FALSE PROMISE OR STATEMENT
6 THAT WAS MADE.

7 MR. FAZIOLI: YOUR HONOR, CAN I JUST
8 INQUIRE SO THE COURT IS CONCERNED, WHY ARE YOU
9 DELETING THE TERM PRETENSES?

10 THE COURT: BECAUSE ONE, IT WASN'T IN
11 YOUR PROPOSED STATEMENT IS ONE REASON. AND THE
12 OTHER DOES JUST SEEMED TO ME TO BE KIND OF FUNNY TO
13 SAY -- I MEAN, I'M HAPPY TO PUT PRETENSES IN; WITH
14 ALL OF YOU AGREEING ON AT ONE PARTICULAR FALSE
15 PROMISE OR STATEMENT THAT WAS MADE.

16 DO YOU WANT TO ADD FALSE PRETENSE IN
17 THERE TOO?

18 MR. FONG: IT'S FOR A PRELIMINARY
19 INSTRUCTION, YOUR HONOR.

20 IT APPEARS TO ME TO BE SOMEWHAT
21 REDUNDANT. WE CAN MAYBE HASH THAT OUT BEFORE THE
22 FINAL INSTRUCTION.

23 MR. FAZIOLI: YOU'VE EXPLAINED YOUR
24 REASONING AND IT'S PERSUASIVE. SO WE ARE ALL RIGHT
25 WITH THE WAY YOU PROPOSED IT.

1 THE COURT: OKAY. ARE WE READY TO GO?

2 MR. FAZIOLI: YES, YOUR HONOR.

3 MR. FONG: YES, YOUR HONOR.

4 MR. FAZIOLI: YOUR HONOR, WITH THE
5 AGREEMENT OF THE DEFENSE AFTER THE OPENING
6 STATEMENTS THE UNITED STATES WAS GOING TO READ A
7 STIPULATION INTO THE RECORD.

8 THE COURT: THAT'S FINE.

9 MR. FAZIOLI: I THINK IT WOULD SAVE TIME.
10 WE WILL DO THAT BEFORE WE CALL OUR FIRST WITNESS.

11 (WHEREUPON, THE FOLLOWING PROCEEDINGS
12 WERE HELD IN THE PRESENCE OF THE JURY:)

13 THE COURT: ALL RIGHT, GOOD MORNING,
14 EVERYBODY.

15 WHAT I INDICATED TO YOU YESTERDAY WAS
16 THAT THE FIRST THING THIS MORNING WOULD BE THAT I
17 WOULD GIVE YOU SOME FURTHER INSTRUCTIONS WITH
18 RESPECT TO YOUR DUTIES IN THIS CASE, SO THAT'S WHAT
19 I'M GOING TO DO.

20 YOU ARE NOW THE JURY IN THIS CASE AND I'M
21 GOING TO TAKE A FEW MINUTES TO TELL YOU SOMETHING
22 ABOUT YOUR DUTIES AS JURORS AND TO GIVE YOU SOME
23 PRELIMINARY INSTRUCTIONS.

24 AT THE END OF THE TRIAL I WILL GIVE YOU
25 MORE DETAILED WRITTEN INSTRUCTIONS THAT WILL

1 ACTUALLY CONTROL YOUR DELIBERATIONS.

2 WHEN YOU DELIBERATE IT WILL BE YOUR DUTY
3 TO WEIGH AND TO EVALUATE ALL THE EVIDENCE RECEIVED
4 IN THE CASE AND IN THAT PROCESS, DECIDE THE FACTS.

5 TO THE FACTS AS YOU FIND THEM, YOU WILL
6 APPLY THE LAW AS I GIVE IT TO YOU WHETHER YOU AGREE
7 WITH THE LAW OR NOT.

8 YOU MUST DECIDE THE CASE SOLELY ON THE
9 EVIDENCE AND THE LAW BEFORE YOU AND MUST NOT BE
10 INFLUENCED BY ANY PERSONAL LIKES OR DISLIKES,
11 OPINIONS, PREJUDICES OR SYMPATHY.

12 PLEASE DO NOT TAKE ANYTHING I MAY SAY OR
13 DO DURING THE TRIAL AS INDICATING WHAT I THINK OF
14 THE EVIDENCE OR WHAT YOUR VERDICT SHOULD BE, THAT
15 IS ENTIRELY UP TO YOU.

16 THIS IS A CRIMINAL CASE BROUGHT BY THE
17 UNITED STATES GOVERNMENT. THE GOVERNMENT CHARGES
18 ALBERT HU WITH SEVEN COUNTS OF WIRE FRAUD.

19 THE CHARGES AGAINST MR. HU ARE CONTAINED
20 IN WHAT IS CALLED THE INDICTMENT. THE INDICTMENT
21 SIMPLY DESCRIBES THE CHARGES THE GOVERNMENT BRINGS
22 AGAINST THE DEFENDANT. THE INDICTMENT IS NOT
23 EVIDENCE AND DOES NOT PROVE ANYTHING.

24 MR. HU HAS PLEADED NOT GUILTY TO THE
25 CHARGES AND IS PRESUMED INNOCENT UNLESS AND UNTIL

1 THE GOVERNMENT PROVES HIM GUILTY BEYOND A
2 REASONABLE DOUBT. IN ADDITION, THE DEFENDANT HAS
3 THE RIGHT TO REMAIN SILENT AND NEVER HAS TO PROVE
4 INNOCENCE OR PRESENT ANY EVIDENCE.

5 IN ORDER TO HELP YOU FOLLOW THE EVIDENCE,
6 I WILL NOW GIVE YOU A BRIEF SUMMARY OF THE ELEMENTS
7 OF THE CRIME OF WIRE FRAUD WHICH THE GOVERNMENT
8 MUST PROVE TO TAKE ITS CASE ON EACH OF THE COUNTS
9 ALLEGED.

10 IN ORDER FOR MR. HU TO BE FOUND GUILTY OF
11 THE OFFENSE OF WIRE FRAUD, THE GOVERNMENT MUST
12 PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A
13 REASONABLE DOUBT.

14 FIRST, THE DEFENDANT KNOWINGLY DEvised A
15 SCHEME OR PLAN TO DEFRAUD OR A SCHEME OR PLAN FOR
16 OBTAINING MONEY OR PROPERTY BY MEANS OF FALSE OR
17 FRAUDULENT PROMISES OR STATEMENTS WITH ALL OF YOU
18 AGREEING ON AT LEAST ONE PARTICULAR FALSE PROMISE
19 OR STATEMENT THAT WAS MADE.

20 SECOND, THE STATEMENTS MADE AS PART OF
21 THE SCHEME WERE MATERIAL, THAT IS THEY HAD A
22 NATURAL TENDENCY TO INFLUENCE OR WERE CAPABLE OF
23 INFLUENCING A PERSON TO PART WITH MONEY OR
24 PROPERTY.

25 THIRD, THE DEFENDANT ACTED WITH THE

1 INTENT TO DEFRAUD, THAT IS THE INTENT TO DECEIVE OR
2 CHEAT.

3 AND FOURTH, THE DEFENDANT USED OR CAUSED
4 TO BE USED INTERSTATE OR INTERNATIONAL WIRES TO
5 CARRY OUT AN ESSENTIAL PART OF THE SCHEME.

6 IN DETERMINING WHETHER A SCHEME TO
7 DEFRAUD EXISTS YOU MAY CONSIDER NOT ONLY THE
8 DEFENDANT'S WORDS AND STATEMENTS BUT ALSO THE
9 CIRCUMSTANCES IN WHICH THEY WERE USED AS A WHOLE.

10 A DEFENDANT USES OR CAUSES SOMEONE TO USE
11 INTERSTATE WIRES WHEN HE KNOWS OR REASONABLY FOR
12 SEES IN THE ORDINARY COURSE OF BUSINESS, THAT ANY
13 WRITING SIGNAL OR SOUND WILL BE TRANSMITTED BY
14 MEANS OF WIRE, RADIO OR TELEVISION COMMUNICATION
15 FROM ONE STATE TO ANOTHER.

16 SIMILARLY, A DEFENDANT USES OR CAUSES
17 SOMEONE TO USE INTERNATIONAL WIRES WHEN HE KNOWS OR
18 REASONABLY FORESEES IN THE ORDINARY COURSE OF
19 BUSINESS, THAT ANY WRITING, SIGNAL OR SOUND WILL BE
20 TRANSMITTED BY MEANS OF WIRE, RADIO OR TELEVISION
21 COMMUNICATION FROM ONE COUNTRY TO ANOTHER.

22 IT DOES NOT MATTER WHETHER THE MATERIAL
23 WIRE WAS ITSELF FALSE OR DECEPTIVE, SO LONG AS THE
24 WIRES WERE USED AS PART OF THE SCHEME. NOR DOES IT
25 MATTER WHETHER THE SCHEME OR PLAN WAS SUCCESSFUL OR

1 THAT ANY MONEY OR PROPERTY WAS OBTAINED.

2 IT IS EVIDENCE YOU ARE TO CONSIDER IN
3 DECIDING WHAT THE FACTS ARE CONSISTS OF ONE, THE
4 SWORN TESTIMONY OF ANY WITNESS. TWO, THE EXHIBITS
5 WHICH ARE RECEIVED IN EVIDENCE.

6 AND THREE, ANY FACTS TO WHICH THE PARTIES
7 AGREE.

8 THE FOLLOWING THINGS ARE NOT EVIDENCE AND
9 YOU MUST NOT CONSIDER THEM AS EVIDENCE IN DECIDING
10 THE FACTS OF THE CASE:

11 ONE, STATEMENTS AND ARGUMENTS OF THE
12 ATTORNEYS.

13 TWO, QUESTIONS AND OBJECTIONS OF THE
14 ATTORNEYS. YOU MUST CONSIDER A LAWYER'S QUESTIONS
15 TO UNDERSTAND THE ANSWERS OF A WITNESS, THE
16 LAWYER'S QUESTIONS ARE NOT EVIDENCE.

17 THREE, TESTIMONY THAT I INSTRUCT YOU TO
18 DISREGARD.

19 AND FOUR, ANYTHING YOU MAY SEE OR HEAR
20 WHEN THE COURT IS NOT IN SESSION EVEN IF WHAT YOU
21 SEE OR HEAR IS DONE OR SAID BY ONE OF THE PARTIES
22 OR BY ONE OF THE WITNESSES.

23 QUESTIONS MAY BE DIRECT OR
24 CIRCUMSTANTIAL. DIRECT EVIDENCE IS DIRECT PROOF OF
25 A FACT SUCH AS A TESTIMONY BY A WITNESS ABOUT WHAT

1 THAT WITNESS PERSONALLY SAW OR HEARD OR DID.

2 CIRCUMSTANTIAL EVIDENCE IS INDIRECT
3 EVIDENCE, THAT IS, IT IS PROOF OF ONE OR MORE FACTS
4 FROM WHICH ONE CAN FIND ANOTHER FACT.

5 YOU ARE TO CONSIDER BOTH DIRECT AND
6 CIRCUMSTANTIAL EVIDENCE. EITHER CAN BE USED TO
7 PROVE ANY FACT. THE LAW MAKES NO DISTINCTION
8 BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT OR
9 CIRCUMSTANTIAL EVIDENCE. IT IS FOR YOU TO DECIDE
10 HOW MUCH WEIGHT TO GIVE TO ANY EVIDENCE.

11 TO EXPLAIN CIRCUMSTANTIAL EVIDENCE A
12 LITTLE MORE, LET ME GIVE YOU AN EXAMPLE. IF YOU
13 WAKE UP IN THE MORNING AND SEE THAT THE SIDEWALK IS
14 WET, YOU MAY FIND FROM THAT FACT THAT IT RAINED
15 DURING THE NIGHT. HOWEVER, OTHER EVIDENCE SUCH AS
16 A TURNED ON GARDEN HOSE MAY PROVIDE AN EXPLANATION
17 FOR THE WATER ON THE SIDEWALK.

18 THEREFORE, BEFORE YOU DECIDE THAT A FACT
19 HAS BEEN PROVED BY CIRCUMSTANTIAL EVIDENCE, YOU
20 MUST CONSIDER ALL THE EVIDENCE IN LIGHT OF REASON,
21 EXPERIENCE AND COMMON SENSE.

22 THERE ARE RULES OF EVIDENCE THAT CONTROL
23 WHAT CAN BE RECEIVED INTO EVIDENCE. WHEN A LAWYER
24 ASKS A QUESTION OR OFFERS AN EXHIBIT IN EVIDENCE
25 AND A LAWYER ON THE OTHER SIDE THINKS IT IS NOT

1 PERMITTED BY THE RULES OF EVIDENCE, THAT LAWYER MAY
2 OBJECT.

3 IF I OVERRULE THE OBJECTION, THE QUESTION
4 MAY BE ANSWERED OR THE EXHIBIT RECEIVED. IF I
5 SUSTAIN THE OBJECTION, THE QUESTION CANNOT BE
6 ANSWERED OR THE EXHIBIT CANNOT BE RECEIVED.

7 WHENEVER I SUSTAIN AN OBJECTION TO A
8 QUESTION, YOU MUST IGNORE THE QUESTION AND MUST NOT
9 GUESS WHAT THE ANSWER WOULD HAVE BEEN.

10 SOMETIMES I MAY ORDER THAT EVIDENCE BE
11 STRICKEN FROM THE RECORD AND THAT YOU DISREGARD OR
12 IGNORE THE EVIDENCE. THAT MEANS THAT WHEN YOU ARE
13 DECIDING THE CASE YOU MUST NOT CONSIDER IT IS
14 EVIDENCE THAT I TOLD YOU TO DISREGARD.

15 IN DECIDING THE FACTS IN THIS CASE YOU
16 MAY HAVE TO DECIDE WHICH TESTIMONY TO BELIEVE AND
17 WHICH TESTIMONY NOT TO BELIEVE. YOU MAY BELIEVE
18 EVERYTHING A WITNESS SAYS, OR PART OF IT OR NONE OF
19 IT.

20 IN CONSIDERING THE TESTIMONY OF ANY
21 WITNESS, YOU MAY TAKE INTO ACCOUNT ONE, THE
22 WITNESS'S OPPORTUNITY AND ABILITY TO SEE OR HEAR OR
23 KNOW THE THINGS TESTIFIED TO.

24 TWO, THE WITNESS'S MEMORY.

25 THREE, THE WITNESS'S MANNER WHILE

1 TESTIFYING.

2 FOUR, THE WITNESS'S INTEREST IN THE
3 OUTCOME OF THE CASE, IF ANY.

4 FIVE, THE WITNESS'S BIAS OR PREJUDICE, IF
5 ANY.

6 SIX, WHETHER OTHER EVIDENCE CONTRADICTED
7 THE WITNESS'S TESTIMONY.

8 SEVEN, THE REASONABLENESS OF THE
9 WITNESS'S TESTIMONY;

10 AND EIGHT, ANY OTHER FACTORS THAT BEAR ON
11 BELIEVABILITY.

12 THE WEIGHT OF THE EVIDENCE AS TO A FACT
13 DOES NOT NECESSARILY DEPEND ON THE NUMBER OF
14 WITNESSES WHO TESTIFY ABOUT IT.

15 I WILL TALK NOW BRIEFLY ABOUT YOUR
16 CONDUCT AS JURORS WE DISCUSSED THIS A LITTLE BIT
17 YESTERDAY.

18 FIRST, KEEP AN OPEN MIND THROUGHOUT THE
19 TRIAL AND DO NOT DECIDE WHAT THE VERDICT SHOULD BE
20 UNTIL YOU AND YOUR FELLOW JURORS HAVE COMPLETED
21 YOUR DELIBERATIONS AT THE END OF THE CASE.

22 SECOND, BECAUSE YOU MUST DECIDE THIS CASE
23 BASED ONLY ON THE EVIDENCE RECEIVED IN THE CASE,
24 AND ON MY INSTRUCTIONS ON THE LAW THAT APPLIES, YOU
25 MUST NOT BE EXPOSED TO ANY OTHER INFORMATION ABOUT

1 THE CASE OR TO THE ISSUES IT INVOLVES DURING THE
2 COURSE OF YOUR JURY DUTY.

3 THUS, UNTIL THE END OF THE CASE OR UNLESS
4 I TELL YOU OTHERWISE, DO NOT COMMUNICATE WITH
5 ANYONE IN ANY WAY AND DO NOT LET ANYONE ELSE
6 COMMUNICATE WITH YOU IN ANY WAY ABOUT THE MERITS OF
7 THE CASE OR ANYTHING TO DO WITH IT.

8 THIS INCLUDES DISCUSSING THE CASE IN
9 PERSON, WRITING BY PHONE OR ELECTRONIC MEANS,
10 E-MAIL, TEXT MESSAGES, MESSAGING OR ANY INTERNET
11 CHAT ROOM, BLOG WEBSITE OR OTHER FEATURE.

12 THIS APPLIES TO COMMUNICATING WITH YOUR
13 FELLOW JURORS UNTIL I GIVE YOU THE CASE FOR
14 DELIBERATION AND IT APPLIES TO COMMUNICATING WITH
15 EVERYONE ELSE INCLUDING YOUR FAMILY MEMBERS, YOUR
16 EMPLOYER, THE MEDIA OR PRESS AND THE PEOPLE
17 INVOLVED IN THE TRIAL, ALTHOUGH YOU MAY NOTIFY YOUR
18 FAMILY AND YOUR EMPLOYER THAT YOU HAVE BEEN SEATED
19 AS A JUROR IN THE CASE.

20 BUT IF YOU ARE ASKED OR APPROACHED IN ANY
21 WAY ABOUT YOUR JURY SERVICE OR ANYTHING ABOUT THIS
22 CASE, YOU MUST RESPOND THAT YOU HAVE BEEN ORDERED
23 NOT TO DISCUSS THE MATTER AND TO REPORT THE CONTACT
24 TO THE COURT.

25 BECAUSE YOU WILL RECEIVE ALL THE EVIDENCE

1 AND LEGAL INSTRUCTIONS YOU MAY PROPERLY CONSIDER TO
2 RETURN A VERDICT, DO NOT READ, WATCH OR LISTEN TO
3 ANY NEWS OR MEDIA ACCOUNTS OR COMMENTARY ABOUT THE
4 CASE OR ANYTHING TO DO WITH IT. DO NOT DO ANY
5 RESEARCH SUCH AS CONSULTING DICTIONARIES SEARCHING
6 THE INTERNET OR USING OTHER REFERENCE MATERIALS AND
7 DO NOT MAKE ANY INVESTIGATION OR IN ANY OTHER WAY
8 TRY TO LEARN ABOUT THE CASE ON YOUR OWN.

9 THE LAW REQUIRES THESE RESTRICTIONS TO
10 ENSURE THAT THE PARTIES HAVE A FAIR TRIAL AND THE
11 SAME EVIDENCE THAT EACH PARTY HAS HAD AN
12 OPPORTUNITY TO ADDRESS.

13 A JUROR WHO VIOLATES THESE RESTRICTIONS
14 JEOPARDIZES THE FAIRNESS OF THE PROCEEDINGS.

15 IN ANY JUROR IS EXPOSED TO ANY OUTSIDE
16 INFORMATION, PLEASE NOTIFY ME IMMEDIATELY.

17 AT THE END OF THE TRIAL YOU WILL HAVE TO
18 MAKE YOUR DECISION BASED UPON WHAT YOU RECALL OF
19 THE EVIDENCE.

20 YOU WILL NOT HAVE A WRITTEN TRANSCRIPT OF
21 THE TRIAL THEREFORE IT'S IMPORTANT YOU PAY CLOSE
22 ATTENTION TO THE TESTIMONY AS IT IS GIVEN.

23 IF YOU WISH YOU MAY TAKE NOTES TO HELP
24 YOU REMEMBER THE EVIDENCE. IF YOU DO TAKE NOTES
25 PLEASE KEEP THEM TO YOURSELF UNTIL YOU AND YOUR

1 FELLOW JURORS GO TO THE JURY ROOM TO DECIDE THE
2 CASE.

3 DO NOT LET NOTE TAKING DISTRACT YOU FROM
4 BEING ATTENTIVE. WHEN YOU LEAVE THE COURT FOR
5 RECESSES YOUR NOTES SHOULD BE LEFT IN THE COURTROOM
6 OR THE JURY ROOM. NO ONE WILL READ YOUR NOTES.

7 WHETHER OR NOT YOU TAKE NOTES, YOU SHOULD
8 RELY ON YOUR OWN MEMORY OF THE EVIDENCE. NOTES ARE
9 ONLY TO ASSIST YOUR MEMORY. YOU SHOULDN'T BE
10 OVERLY INFLUENCED BY YOUR NOTES OR THOSE OF YOUR
11 FELLOW JURORS.

12 FROM TIME TO TIME DURING THE TRIAL IT MAY
13 BECOME NECESSARY FOR ME TO TAKE UP LEGAL MATTERS
14 WITH THE ATTORNEYS PRIVATELY EITHER BY HAVING A
15 CONFERENCE AT THE BENCH OR WHEN NECESSARY BY
16 CALLING A RECESS. WE WILL DO WHAT WE CAN TO KEEP
17 THE NUMBER AND LENGTH OF THESE CONFERENCES TO A
18 MINIMUM. I MAY NOT ALWAYS GRANT AN ATTORNEY'S
19 REQUEST FOR A CONFERENCE.

20 THE NEXT PHASE OF THE TRIAL WILL NOW
21 BEGIN. FIRST EACH SIDE MAY MAKE AN OPENING
22 STATEMENT. AN OPENING STATEMENT IS NOT EVIDENCE,
23 IT IS SIMPLY AN OUTLINE TO HELP YOU UNDERSTAND WHAT
24 THAT PARTY EXPECTS THE EVIDENCE WILL SHOW.

25 A PARTY IS NOT REQUIRED TO MAKE AN

1 OPENING STATEMENT. THE GOVERNMENT WILL THEN
2 PRESENT EVIDENCE AND COUNSEL FOR THE DEFENDANT MAY
3 CROSS-EXAMINE. THEN IF THE DEFENDANT CHOOSES TO
4 OFFER EVIDENCE, COUNSEL FOR THE GOVERNMENT MAY
5 CROSS-EXAMINE.

6 AFTER THE EVIDENCE HAS BEEN PRESENTED,
7 THE ATTORNEYS WILL MAKE CLOSING ARGUMENTS AND I
8 WILL INSTRUCT YOU ON THE LAW THAT APPLIES TO THE
9 CASE.

10 AFTER THAT YOU WILL GO TO THE JURY ROOM
11 TO DELIBERATE ON YOUR VERDICT.

12 ALL RIGHT. SO THE DOES THE GOVERNMENT
13 WISH TO MAKE AN OPENING STATEMENT?

14 MR. FAZIOLI: YES, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16
17 **OPENING STATEMENT BY MR. FAZIOLI**

18
19 MR. FAZIOLI: GOOD MORNING.

20 BEFORE I BEGIN MY OPENING STATEMENT I
21 WANTED TO THANK YOU IN ADVANCE FOR YOUR SERVICE AND
22 THANK YOU FOR TAKING THE TIME TO SERVE AS JURORS ON
23 THIS CASE.

24 I ALSO WANTED TO BRIEFLY REINTRODUCE WHO
25 IS GOING TO BE AT GOVERNMENT TABLE DURING THE

1 COURSE OF THIS CASE.

2 MY NAME IS ASSISTANT UNITED STATES
3 ATTORNEY JOSEPH FAZIOLI. AND I'M AN ASSISTANT
4 UNITED STATES ATTORNEY HERE IN THE NORTHERN
5 DISTRICT OF CALIFORNIA.

6 I'M WORKING ON THIS CASE WITH MY
7 COLLEAGUE TIM LUCEY WHO IS ALSO AN ASSISTANT
8 UNITED STATES ATTORNEY HERE IN THE NORTHERN
9 DISTRICT OF CALIFORNIA.

10 ALSO SITTING AT TABLE IS THE F.B.I. CASE
11 AGENT FOR THIS CASE GREG FINE. ALSO SITTING AT
12 TABLE WHO IS WHO WAS NOT HERE YESTERDAY IS NINA
13 BURNEY. SHE IS A LEGAL TECHNICIAN IN OUR OFFICE.
14 SHE WILL BE HELPING TO KEEP THE PRESENTATION MOVING
15 AND WILL ALSO WE WILL BE PROJECTING CERTAIN
16 DOCUMENTS ON THAT SCREEN THAT ARE RELEVANT TO THE
17 CASE.

18 "I WILL INVEST YOUR MONEY IN HIGH-TECH
19 STOCKS AND CAN GET YOU A 20 PERCENT RETURN."

20 "I HAVE A PHD FROM MIT WITH A GREAT TRACK
21 RECORD OF INVESTMENT SUCCESS. AND MY INVESTMENT
22 FUNDS HAVE ASSETS TALLING OVER \$200 MILLION. BUT
23 MY INVESTMENT FUNDS REQUIRE A MINIMUM INVESTMENT OF
24 \$1 MILLION."

25 "YOU CAN TRUST ME BECAUSE MY INVESTMENT

1 FUNDS ARE NOT A ONE-MAN SHOW. BUT ARE AFFILIATED
2 WITH A LOT OF REPUTABLE ENTITIES, INCLUDING
3 PROMINENT LAW FIRMS, A HEDGE FUND ADMINISTRATION
4 FIRM, AN ACCOUNTING FIRM, AND AN INDEPENDENT
5 AUDITING FIRM THAT HAS REVIEWED OUR BOOKS.

6 AND THE CFO OF MY INVESTMENT FUNDS IS AN
7 INDIVIDUAL NAMED TONY POLLACK."

8 THE EVIDENCE AT THIS TRIAL WILL SHOW THAT
9 THESE ARE SOME OF THE PROMISES THAT THE DEFENDANT,
10 ALBERT HU, MADE TO INVESTORS TO GET THEM TO GIVE
11 HIM MONEY FOR THE INVESTMENT FUNDS THAT HE FOUND TO
12 BE CONTROLLED IN THE TIME PERIOD FROM 2002 TO 2008.

13 THE UNITED STATES WILL PRESENT EVIDENCE
14 AT THIS TRIAL THAT DURING THAT TIME PERIOD THE
15 DEFENDANT FOUNDED AND RAN A NUMBER OF INVESTMENT
16 FOUNDS AND OTHER COMPANIES.

17 THE MOST PROMINENT OF WHICH YOU WILL HEAR
18 ABOUT WERE CALLED THE ASENQUA BETA FUND, THE
19 FIRESIDE LS FUND, AND YOU WILL ALSO HEAR ABOUT
20 OTHER COMPANIES WITH THE NAME ASENQUA AND ABOUT
21 ANOTHER ONE OF THE DEFENDANT'S INVESTMENT FUNDS
22 WHICH WAS CALLED THE ASENQUA MULTI STRATEGY FUND.

23 THE DEFENDANT ALBERT HU RAN THOSE
24 INVESTMENT ACTIVITIES THROUGH A COMPANY HE WAS IN
25 CONTROL OF CALLED ASENQUA CAPITOL.

1 YOU MAY HEAR EVIDENCE THAT THE DEFENDANT
2 HIRED SOME PEOPLE TO WORK FOR HIM INCLUDING AN
3 OFFICE MANAGER NAMED LINDA DANESH.

4 BUT THE EVIDENCE WILL SHOW THAT THE
5 DEFENDANT WAS THE PERSON IN CHARGE, THE DRIVING
6 FORCE BEHIND HIS INVESTMENT FUNDS, THE PERSON WHO
7 CONTROLLED THOSE FUNDS AND CONTROLLED WHAT HAPPENED
8 TO THE MONEY.

9 YOU WILL HEAR EVIDENCE THAT THE DEFENDANT
10 MADE VARIOUS PROMISES TO GET PEOPLE TO INVEST THEIR
11 MONEY AND THAT HE MADE THOSE PROMISES TO MANY
12 DIFFERENT PEOPLE, MANY DIFFERENT TIMES AND IN MANY
13 DIFFERENT WAYS, BOTH VERBALLY BUT ALSO IN WRITING.

14 FIRST, THE DEFENDANT PROMISED INVESTORS
15 THAT THEIR MONEY WOULD ACTUALLY BE INVESTED. AND
16 THAT IT WOULD BE INVESTED IN HIGH-TECH STOCKS. THE
17 DEFENDANT PROMISED THAT THEIR MONEY WOULD BE
18 INVESTED -- THAT PEOPLE WERE INVESTING IN A HEDGE
19 FUND.

20 AND YOU WILL SEE CERTAIN INVESTMENT
21 RELATED DOCUMENTS THAT THE DEFENDANT PROVIDED TO
22 INVESTORS TO GET THEM TO INVEST AND IN CONNECTION
23 WITH THEIR INVESTMENTS.

24 YOU WILL SEE A DOCUMENT CALLED A PPM THAT
25 SEVERAL INVESTORS WERE PROVIDED. THIS IS A

1 DOCUMENT RELATED TO A POTENTIAL INVESTMENT THEN YOU
2 WILL SEE A DOCUMENT CALLED A SUBSCRIPTION BOOKLET
3 WHICH RELATES TO WHEN PEOPLE DECIDED TO INVEST AND
4 THE DOCUMENTS WERE SIGNED OFF BY BOTH THE DEFENDANT
5 AND THE INVESTOR.

6 THE DEFENDANT ALSO TOLD INVESTORS THAT
7 THEY COULD TRUST HIM BECAUSE HE HAD RETAINED
8 SEVERAL REPUTABLE COMPANIES THAT WERE ASSOCIATED
9 WITH HIS INVESTMENT FUNDS.

10 AND THE DEFENDANT TOLD INVESTORS IN
11 WRITING THAT HE HAD RETAINED THE PROMINENT NATIONAL
12 LAW FIRM OF PROSKAUER ROSE. THE DEFENDANT ALSO
13 TOLD INVESTORS IN WRITING THAT THE ACCOUNTING FIRM
14 SYLAR WERE THE ACCOUNTANTS FOR THE FUND.

15 THE DEFENDANT ALSO TOLD INVESTORS IN
16 WRITING THAT THE HEDGE FUND ADMINISTRATIVE FIRM
17 GLOBEOP WAS HAD BEEN RETAINED BY THE FUND AND WAS
18 GOING TO BE PROVIDING ADMINISTRATIVE SERVICES FOR
19 HIS INVESTMENT FUNDS.

20 THE DEFENDANT ALSO TOLD INVESTORS THAT
21 THIS SUPPOSEDLY INDEPENDENT AUDITING FIRM OF
22 CASTILLO, LYN, COHEN & VIJAY HAD SIGNED OFF ON THE
23 BOOKS RELATED TO HIS INVESTMENT FUNDS.

24 THE DEFENDANT PROVIDED DOCUMENTS TO
25 INVESTORS WHICH PURPORTEDLY HAD BEEN WRITTEN BY

1 THIS SO CALLED INDEPENDENT ACCOUNTING FIRM,
2 CASTILLO, LYN, COHEN & VIJAY AND BY A CPA WITH THAT
3 FIRM NAMED JUNE CASTILLO.

4 BASED ON THOSE PROMISES AND OTHER ONES
5 THAT YOU WILL HEAR OVER THE COURSE OF THIS TRIAL,
6 THE DEFENDANT WAS ABLE TO RAISE MILLIONS OF DOLLARS
7 FROM INVESTORS AROUND THE WORLD, LIVING IN BOTH THE
8 UNITED STATES AND IN TAIWAN.

9 AND DURING THIS TRIAL YOU WILL BE HEARING
10 TESTIMONY FROM A NUMBER OF THOSE INVESTORS WHO ARE
11 GOING TO COME IN AND PRESENTS EVIDENCE. THEY WILL
12 TESTIFY WHAT THEY WERE TOLD BY THE DEFENDANT AND
13 TESTIFY TO SOME OF THE DOCUMENTS PROVIDED BY HIM.

14 SOME OF THE INVESTORS WILL INCLUDE FUYUAN
15 LIN, ALSO KNOWN AS BOB LIN. JOHN MARK VERDIELL,
16 GRACE DOONG, ANDY YAN.

17 THOSE INVESTORS WILL TESTIFY THAT THE
18 PROMISES THAT THE DEFENDANT MADE TO THEM INFLUENCED
19 THEM TO INVEST MONEY WITH THE DEFENDANT.

20 THEY WILL TESTIFY IF THEY HAD KNOWN THAT
21 THOSE PROMISES WERE FALSE, THEY WOULDN'T HAVE
22 INVESTED MONEY WITH THE DEFENDANT. THEY WOULDN'T
23 HAVE WIRED HIM MONEY.

24 THE EVIDENCE WILL SHOW THAT AFTER THE
25 DEFENDANT RECEIVED THESE INVESTORS MONEY AFTER HE

1 RECEIVED MILLIONS OF DOLLARS FROM THEM, THAT HE
2 SUBMITTED TO THEM FINANCIAL DOCUMENTS CLAIMING THAT
3 THEIR INVESTMENTS WERE DOING GREAT, THAT THEIR
4 INVESTMENTS WERE GETTING GREAT RETURNS THAT, IN
5 SOME INSTANCES THEIR MONEY HAD MORE THAN DOUBLED.

6 HE ALSO REPRESENTED TO INVESTORS THAT
7 THEIR MONEY HAD ACTUALLY BEEN INVESTED. YOU WILL
8 SEE EVIDENCE THAT THE DEFENDANT SIGNS ALL THESE
9 DOCUMENTS. THESE UPDATES ABOUT PEOPLE'S
10 INVESTMENTS, AND THAT THESE DOCUMENTS THESE
11 INVESTMENT UPDATES ARE SUPPOSEDLY CO-SIGNED BY THE
12 CFO OF HUES INVESTMENT FUNDS, AN INDIVIDUAL NAMED
13 TONY POLLACE.

14 SO THE DEFENDANT WAS ABLE TO RAISE
15 MILLIONS OF DOLLARS FROM INVESTORS BUT THE EVIDENCE
16 WILL SHOW THAT UNFORTUNATELY FOR THE PEOPLE WHO
17 TRUSTED THE DEFENDANT, AND TRUSTED HIM WITH THEIR
18 MONEY, THE REALITY WAS QUITE DIFFERENT FROM WHAT
19 ALBERT HU HAD TOLD THEM.

20 THE EVIDENCE WILL SHOW THAT THE
21 DEFENDANT, ALBERT HU, LIED TO INVESTORS TO GET
22 THEIR MONEY. YOU WILL HEAR FROM REPRESENTATIVES OF
23 THE VARIOUS COMPANIES THAT THE DEFENDANT TOLD
24 INVESTORS WERE CONNECTED WITH HIS INVESTMENT FUNDS.
25 THESE WITNESSES WILL ALL TESTIFY IN ESSENCE THAT

1 THEIR ORGANIZATIONS NEVER HAD ANYTHING TO DO WITH
2 THE DEFENDANT AND HIS INVESTMENT FUNDS.

3 THE EVIDENCE WILL SHOW THAT THE DEFENDANT
4 LIED TO INVESTORS ABOUT PROSKAUER ROSE BEING ONE OF
5 THE LAW FIRMS FOR HIS INVESTMENT FUNDS. PROSKAUER
6 ROSE IS A PROMINENT NATIONAL LAW FIRM. BUT YOU
7 WILL HEAR FROM A REPRESENTATIVE OF THAT FIRM THAT
8 THE DEFENDANT AND HIS INVESTMENT FUNDS WERE NEVER
9 ONE OF THEIR CLIENTS. AND THAT THEY LOOKED AND
10 THERE WAS NO EVIDENCE THAT THE DEFENDANT WAS EVER A
11 CLIENT OR THAT PROSKAUER ROSE DID ANY WORK FOR THE
12 DEFENDANT OR HIS INVESTMENT FUNDS.

13 THE EVIDENCE WILL SHOW THAT THE DEFENDANT
14 LIED ABOUT THE ACCOUNTING FIRM, SYLAR BEING THE
15 ACCOUNTANTS FOR HIS FUNDS. SYLAR IS AN ACCOUNTING
16 FIRM IN THE BAY AREA, BUT YOU WILL ALSO HEAR FROM A
17 REPRESENTATIVE OF THE SYLAR FIRM THAT NEITHER THE
18 DEFENDANT NOR HIS FUNDS WERE EVER A CLIENT OF THE
19 FIRM. AND THAT THERE'S NO INDICATION THAT THEIR
20 FIRM DID ANY WORK FOR THE DEFENDANT AND HIS
21 INVESTMENT FUNDS.

22 YOU WILL ALSO HEAR EVIDENCE THAT THE
23 DEFENDANT LIED WHEN HE REPRESENTED THAT THE HEDGE
24 FUND ADMINISTRATIVE FIRM GLOBEOP HAD BEEN RETAINED
25 BY HIS FUND. GLOBEOP IS A HEDGE FUND

1 ADMINISTRATIVE FIRM, BUT AGAIN YOU WILL HEAR
2 EVIDENCE FROM A REPRESENTATIVE OF THAT COMPANY THAT
3 ALBERT HU AND HIS FUNDS WERE NOT A CLIENT OF THE
4 FIRM.

5 THE EVIDENCE WILL ALSO SHOW THAT
6 CASTILLO, LYN, COHEN & VIJAY, THE SO CALLED
7 INDEPENDENT ACCOUNTING FIRM WHEN HU TOLD INVESTORS
8 HAD LOOKED OVER HIS BOOKS INDEPENDENTLY IN
9 CONNECTION WITH THE ESTABLISHED STANDARDS, THAT THE
10 EVIDENCE WILL SHOW THAT CASTILLO, LYN, COHEN &
11 VIJAY NEVER ACTUALLY EXISTED. RATHER, THE EVIDENCE
12 WILL SHOW THAT CASTILLO, LYN, COHEN & VIJAY WAS A
13 SHAM THAT HU CREATED TO CITY HAS FRAUD SCHEME.

14 THE EVIDENCE WILL SHOW THAT CASTILLO,
15 LYN, COHEN & VIJAY OTHER CERTAINLY NOT INDEPENDENT
16 IN ANY WAY. THE DEFENDANT HIMSELF PAID FOR THE
17 OFFICE SPACE FOR THE CASTILLO, LYN, COHEN & VIJAY
18 FIRM. THE DEFENDANT PAID FOR THIS OFFICE SPACE,
19 PUT DOWN A DEPOSIT FOR IT WITH HIS OWN CREDIT CARD,
20 AND HE DIRECTED HIS OFFICE ASSISTANT LINDA DANESH
21 TO SUBMIT AN APPLICATION FOR THIS OFFICE SPACE, AN
22 APPLICATION WHICH CONTAINS THE DEFENDANT'S CREDIT
23 CARD.

24 YOU WILL ALSO HEAR THAT THERE IS NO
25 EVIDENCE THAT CASTILLO, LYN, COHEN & VIJAY HAS EVER

1 EXISTED AS AN AUDITING FIRM. YOU WILL HEAR
2 TESTIMONY FROM A REPRESENTATIVE OF THE CALIFORNIA
3 BOARD OF ACCOUNTANCY. THIS IS A REGULATORY ENTITY
4 THAT AMONG OTHER ROLES IS TASKED TO PROTECT
5 CONSUMERS BY ENSURING ONLY QUALIFIED LICENSEES AND
6 OTHER FIRMS PRACTICE ACCOUNTANCY IN ACCORDANCE WITH
7 ESTABLISHED PROFESSIONAL STANDARDS.

8 THIS IS AN ENTITY THAT TRACKS AUDIT AND
9 ACCOUNTING FIRMS IN CALIFORNIA.

10 YOU WILL HEAR THIS WITNESS FROM THE
11 CALIFORNIA BOARD OF ACCOUNTANCY TESTIFY THAT THEY
12 HAVE NO RECORD OF A CASTILLO, LYN, COHEN & VIJAY
13 EVER EXISTING AS AN AUDITING FIRM IN CALIFORNIA NOR
14 DO THEY HAVE ANY RECORD OF A JUNE CASTILLO AS A CPA
15 IN CALIFORNIA.

16 YOU WILL ALSO HEAR EVIDENCE FROM A
17 WITNESS WITH THE CALIFORNIA EMPLOYMENT DEVELOPMENT
18 DEPARTMENT WHICH IS ALSO KNOWN AS CALIFORNIA EDD.

19 AND WE ANTICIPATE THIS WITNESS WILL
20 TESTIFY THAT THEY HAVE DONE A SEARCH OF THEIR
21 RECORDS TO SEE WHETHER THERE'S ANY RECORDS OF A
22 CASTILLO, LYN, COHEN & VIJAY THAT PAID MONEY TO EDD
23 FOR ITS EMPLOYEES AND THAT THERE'S NO INDICATION
24 THAT A CASTILLO, LYN, COHEN & VIJAY EVEN EXISTS.

25 WE WILL ALSO INTRODUCE A FINANCIAL

1 ANALYSIS OF WHAT THE DEFENDANT ALBERT HU DID WITH
2 THE MONEY THAT INVESTORS ENTRUSTED WITH HIM. WE
3 WILL INTRODUCE INTO EVIDENCE A SERIES OF EXHIBITS
4 WHICH ARE FINANCIAL RECORDS THAT THE INVESTIGATION
5 HAS OBTAINED OVER THE, ABOUT THE DEFENDANT'S
6 ACTIVITIES AND HIS FINANCIAL AFFAIRS BOTH RELATED
7 TO HIS INVESTMENT FUNDS AND SOME OF HIS PERSONAL
8 FINANCES.

9 WE WILL INTRODUCE, THE PARTIES HAVE
10 STIPULATED TO THAT, AND WE WILL INTRODUCE THOSE
11 RECORDS INTO EVIDENCE.

12 DURING THE GOVERNMENT'S CASE WE WILL
13 PRESENT EVIDENCE FROM THE F.B.I., CASE AGENT IN
14 THIS CASE, GREG FINE WHO WILL PROVIDE SUMMARY
15 TESTIMONY REGARDING THOSE FINANCIAL RECORDS. HE'S
16 REVIEWED THOSE RECORDS AND WILL SUMMARIZE THEM.

17 THE EVIDENCE WILL SHOW THAT THERE IS NO
18 QUESTION THAT DEFENDANT CONTROLLED WHAT HAPPENED
19 WITH THE MONEY HIS INVESTORS GAVE HIM.

20 YOU WILL HEAR TESTIMONY FROM INVESTORS
21 THAT MR. HU DIRECTED THEM REGARDING WHERE TO WIRE
22 THE MONEY. YOU WILL ALSO HEAR EVIDENCE THAT FROM
23 THE DEFENDANT'S FORMER EMPLOYEES THAT HE TIGHTLY
24 CONTROLLED THE PURSE STRINGS FOR HIS INVESTMENT
25 FUNDS, IN FACT HE WAS ESSENTIALLY A MICRO MANAGER,

1 AT SOME POINT EVEN DEMANDING A TIGHT INFORMATION
2 AND FREQUENT INFORMATION ABOUT WHAT WAS HAPPENING
3 WITH THE MONEY WITH HIS FUNDS.

4 THE EVIDENCE WILL SHOW THAT AFTER
5 INDUCING INVESTORS TO GIVE HIM MONEY THROUGH FALSE
6 STATEMENTS, THE DEFENDANT TURNED AROUND AND STOLE
7 THEIR MONEY. THE DEFENDANT DID NOT INVEST THE
8 MONEY IN HIGH-TECH FUNDS AS HE PROMISED.

9 THE EVIDENCE WILL SHOW ONLY A SMALL
10 PORTION OF INVESTOR MONEY IS USED TO PURCHASE
11 STOCKS. AND IT'S NOT CLEAR THAT ALL THE MONEY USED
12 TO PURCHASE STOCKS EVER ACTUALLY GOES TO THE
13 BENEFIT OF THE INVESTORS WHO HAD ENTRUSTED THEIR
14 MONEY WITH MR. HU. INSTEAD, THE DEFENDANT STOLE
15 MONEY, INVESTORS MONEY FOR THEIR PERSONAL USE AND
16 OTHER NON INVESTMENT PURPOSES.

17 YOU WILL SEE EVIDENCE OF INVESTOR MONEY
18 COMING IN AND THEN GOING OUT TO ACCOUNTS THAT
19 BELONG TO THE DEFENDANT. YOU WILL SEE EVIDENCE
20 THAT THE DEFENDANT ALBERT HU DIVERTED LARGE SUMS OF
21 INVESTOR MONEY ON CASH, DISSIPATED LARGE AMOUNTS OF
22 MONEY ON CHECK CARD PURCHASES. SPENT MONEY ON GOLF
23 AND RETAIL BUSINESSES SUCH AS FRY'S AND COSTCO AND
24 STARBUCKS, THAT THIS IS INVESTOR MONEY THAT'S TAKEN
25 AND USED FOR A PURPOSE OTHER THAN WHAT THE

1 INVESTORS HAD AGREED TO AND WHAT THE DEFENDANT HAD
2 PROMISED THEM HE WOULD DO WITH THEIR MONEY.

3 THE EVIDENCE WILL ALSO SHOW THAT THE
4 DEFENDANT, ALBERT HU, TOOK ONE INVESTOR'S MONEY TO
5 PAY ANOTHER WITHOUT ANYONE'S KNOWLEDGE OR
6 PERMISSION OF THE INVESTORS.

7 AFTER HAVING LOST OR SPENT ALL OF THE
8 INVESTOR'S MONEY, THE EVIDENCE WILL SHOW THAT THE
9 DEFENDANT CONTINUES TO PAINT A ROSY PICTURE TO
10 INVESTORS. HE'S SENDING THEM QUARTERLY STATEMENTS
11 AND OTHER INFORMATION INDICATE BEING THAT THEIR
12 INVESTMENTS ARE DOING GREAT, THAT THEIR INVESTMENTS
13 IN THE ASENQUA BETA AND THE FIRESIDE LS FUND HAVE
14 GROWN.

15 AND THESE STATEMENTS ARE CO-SIGNED BY AN
16 INDIVIDUAL NAMED TONY POLLACE, ALTHOUGH SOMETIMES
17 THE NAME IS ALSO SPELLED TONY POLLACK, WHO IS
18 PURPORTEDLY WHO HU SAID WAS THE CFO OF HIS FUNDS.

19 THE EVIDENCE WILL SHOW THAT THE REALITY
20 IS A LITTLE DIFFERENT REGARDING MR. POLLACE. WE
21 ANTICIPATE MR. POLLACE WILL TESTIFY THAT IT'S HE
22 WAS AT ONE POINT A PART TIME CFO FOR ONE OF
23 MR. HU'S BUSINESSES, THAT AT THE TIME FRAME IN
24 WHICH IS ISSUE IN THIS CASE, THAT HE WAS NOT A CFO
25 FOR ANY OF MR. HU'S COMPANIES. THAT HE WAS NEVER

1 THE CFO FOR THE ASENQUA BETA FUND OR THE FIRESIDE
2 LS FUND.

3 AND THE EVIDENCE WILL ALSO SHOW THAT
4 TONY POLLACE NEVER SIGNED THOSE QUARTERLY
5 STATEMENTS AND THOSE FINANCIAL DOCUMENTS THAT
6 PURPORTEDLY CONTAINED HIS SIGNATURE AS CFO NEXT TO
7 THE SIGNATURE OF DEFENDANT ALBERT HU.

8 WE ANTICIPATE MR. POLLACE WILL TESTIFY
9 THAT HE NEVER SIGNED ANY OF THOSE DOCUMENTS. AND
10 YOU WILL ALSO SEE EVIDENCE FROM THE CALIFORNIA
11 DEPARTMENT OF MOTOR VEHICLES SHOWING THE SIGNATURE
12 THAT MR. POLLACE PROVIDED TO THE CALIFORNIA DMV.
13 AND IT WILL SHOW THAT SIGNATURE THAT MR. POLLACE
14 PROVIDED TO THE DMV IS VERY DIFFERENT FROM HIS
15 SIGNATURE THAT'S SUPPOSED TO BE ON THESE FINANCIAL
16 DOCUMENTS THAT MR. HU PROVIDED TO INVESTORS.

17 THE EVIDENCE WILL SHOW THAT THE
18 DEFENDANT'S INVESTMENT ACTIVITIES ULTIMATELY FALL
19 APART. IN THE END, MANY INVESTORS TRY TO GET THEIR
20 MONEY BACK. THEY ASK THE DEFENDANT WHAT THEY NEED
21 TO DO TO GET THEIR MONEY BACK. THEY DO WHAT HE
22 TELLS THEM TO DO. BUT MOST OF THEM LOSE
23 EVERYTHING.

24 THE FALSE PROMISES THAT THE DEFENDANT
25 MADE TO INVESTORS, THE LIES HE TOLD THEM THAT HE

1 KNEW THEY WERE LIES AT THE TIME CAUSED THEM TO WIRE
2 MOAN AND SEND WIRES. AND BECAUSE THE DEFENDANT'S
3 SCHEME OF FRAUD LEAD TO THOSE LIES HE COMMITTED
4 WIRE FRAUD.

5 AFTER ALL THE EVIDENCE HAS BEEN SUBMITTED
6 WE WILL COME BACK AND WE WILL MAKE A CLOSING
7 STATEMENT WHERE WE ANTICIPATE THAT THE EVIDENCE
8 WILL SHOW THAT THE DEFENDANT IS GUILTY ON ALL
9 COUNTS OF WIRE FRAUD.

10 THANK YOU.

11 THE COURT: MR. FONG, DO YOU WISH TO MAKE
12 AN OPENING STATEMENT?

13 MR. FONG: YES, YOUR HONOR, THANK YOU.

14

15 **OPENING STATEMENT BY MR. FONG**

16

17 MR. FONG: YOUR HONOR, JUDGE WHYTE,
18 MR. LUCEY, MR. FAZIOLI, MEMBERS OF THE PROSECUTION
19 TEAM, LADIES AND GENTLEMEN OF THE JURY, GOOD
20 MORNING. MY NAME IS JERRY FONG AND I REPRESENT
21 DEFENDANT ALBERT HU.

22 I LIKE A CLICHE AS MUCH AS THE NEXT
23 PERSON AND I THINK EVEN THOSE OF US WHO ARE NON
24 LAWYERS HAVE HEARD THAT AN OPENING STATEMENT IS
25 SUPPOSED TO BE A ROAD MAP.

1 YOU WILL FIND THAT IN SORT OF A LAWYER
2 101 THAT A LAWYER STATEMENT IS SUPPOSED TO BE A
3 ROAD MAP. IT'S SUPPOSED TO HELP YOU, THE JURORS,
4 TO FOLLOW THE EVIDENCE.

5 NOW, AS WE ALL KNOW, THOUGH, WHICH ROAD
6 MAP ON WHAT ROAD? NOW, THE PROSECUTOR HAS SAID IN
7 HIS OPENING STATEMENT A LOT OF THINGS. WHAT I WANT
8 YOU TO FOCUS ON IS WHAT IS ACTUALLY CHARGED IN THIS
9 CASE.

10 THE EVIDENCE IN THIS CASE WILL MAKE SENSE
11 ONLY IF WE FOCUS ON WHAT IS ACTUALLY CHARGED. WHAT
12 IS ACTUALLY CHARGED IS THAT MR. HU SUPPOSEDLY
13 ALLEGEDLY DEFRAUDED TWO INDIVIDUALS. BOB LIN OR
14 ROBERT LIN, AND ANOTHER GENTLEMAN BY THE NAME OF
15 JEAN MARK VERDIELL.

16 MR. HU IS NOT CHARGED WITH DEFRAUDING
17 ANYBODY ELSE. SO WE ARE GOING TO LOOK AT THE ROAD
18 MAP OF EVIDENCE IN THIS CASE. I WOULD ASK YOU TO
19 LOOK AT THE EVIDENCE AS THEY RELATE BACK TO THESE
20 TWO INDIVIDUALS, WERE THEY DEFRAUDED BY MR. HU, BOB
21 LIN AND MR. JEAN MARK VERDIELL.

22 NOW, JUDGE WHYTE READ TO YOU EARLIER THIS
23 MORNING THE ELEMENTS, IF YOU WILL, THE REQUIREMENTS
24 OF WHAT IS NECESSARY, THE LEGAL REQUIREMENTS THAT
25 ARE NECESSARY FOR SOMEBODY TO BE CONVICTED OF WIRE

1 FRAUD.

2 I WANT TO FOCUS ON ONE OF THE ELEMENTS
3 AND THAT IS THE MATERIALITY. NOW, IN ORDER FOR A
4 PERSON TO BE CONVICTED OF WIRE FRAUD, IT DOESN'T
5 MATTER IF THERE WAS A FALSE STATEMENT, IT DOESN'T
6 MATTER IF THERE WERE A MILLION FALSE STATEMENTS, IT
7 DOESN'T MATTER WHAT THE INTENT WAS IF THE ALLEGED
8 FALSE STATEMENTS WERE NOT MATERIAL.

9 WHAT IS MATERIAL? THE INSTRUCTION IS
10 VERY CLEAR THAT IN ORDER FOR A FALSE STATEMENT TO
11 BE LEGALLY RELEVANT IN A WIRE FRAUD OR MAIL FRAUD
12 CASE, IT HAS TO BE SOMETHING THAT HAS A NATURAL
13 TENDENCY TO INFLUENCE OR IS CAPABLE OF INFLUENCING
14 THE PERSON WHO TO MAKE THE DECISION BASED ON WHAT
15 HE OR SHE HAD BEEN TOLD, OKAY.

16 SO WHAT IS IMPORTANT ABOUT THIS CASE IN
17 TERMS OF LOOKING AT THE EVIDENCE IS NOT JUST
18 WHETHER OR NOT THERE WAS A FALSE STATEMENT OR THERE
19 WERE A MILLION FALSE STATEMENTS, BUT WAS ANY OF
20 THESE ALLEGED FALSE STATEMENTS MATERIAL? DID ANY
21 OF THE FALSE STATEMENTS INFLUENCE ONE OF THE TWO
22 INVESTORS, MR. LIN OR MR. VERDIELL INTO DOING
23 SOMETHING THAT HE OTHERWISE WOULD NOT HAVE DONE,
24 THAT IS TO SAY MAKE THE INVESTMENT WITH MR. HU.

25 LET'S LOOK AT MR. LIN FIRST. LET ME

1 BACKTRACK HERE A LITTLE BIT. I DO AGREE WITH THE
2 PROSECUTOR ON CERTAIN ASPECTS OF THE CASE IN TERMS
3 OF WHAT THE EVIDENCE WILL SHOW. THERE WERE SOME
4 FALSE STATEMENTS. NOW, THERE WILL BE A DISPUTE
5 OVER WHAT WAS THE EXTENT OR WHICH ONES WERE FALSE.
6 BUT THERE WERE SOME FALSE STATEMENTS.

7 BUT THE EVIDENCE WILL SHOW THAT EVEN IF
8 THERE WERE SOME FALSE STATEMENTS, THEY WERE
9 IMMATERIAL. THAT IS TO SAY THEY DO NOT INFLUENCE
10 THE TWO PEOPLE WHO MATTER IN THIS CASE, MR. LIN AND
11 MR. VERDIELL, INTO DOING WHAT THEY DID WHICH IS TO
12 INVEST WITH MR. HU.

13 NOW, WHY IS THAT? THE EVIDENCE WILL SHOW
14 THAT MR. LIN WAS NOT JUST YOUR TYPICAL DAY TRADER,
15 INVESTOR, HE MIGHT HAVE GONE TO CHARLES SCHWABB AND
16 SAID LOOK, JUST PUT MY MONEY IN SOMETHING SAFE OR I
17 WANT TO BE A LITTLE BIT RISKY.

18 THE EVIDENCE WILL SHOW MR. LIN, ACCORDING
19 TO HIS OWN BIOGRAPHY, IS A PROFESSIONAL INVESTOR.
20 HE TOUTS HIMSELF AS THE VENTURE CAPITOL KING OF THE
21 CHINESE-AMERICAN COMMUNITY, NOT JUST IN THE BAY
22 AREA BUT THROUGHOUT ASIA.

23 MR. LIN IS AN EXPERT AND ALWAYS HAS BEEN
24 AN EXPERT IN INVESTMENT. HE, IN HIS BIOGRAPHY, THE
25 EVIDENCE WILL SHOW THAT HE BRAGS ABOUT THE FACT

1 THAT HE HAD TAKEN MANY START UP COMPANIES TAKING
2 THEM INTO IPL PUBLIC OFFERING AND THAT HE HAD MADE
3 PROUDLY, JUSTIFIABLY HE HAD MADE A LOT OF MONEY
4 INCLUDING INVESTING IN THE SECOND GENTLEMAN START
5 UP COMPANY -- MR. VERDIELL IS THE OTHER GENTLEMAN.
6 HE HAD A START UP COMPANY.

7 THE EVIDENCE WILL SHOW THAT MR. LIN
8 INVESTED IN MR. VERDIELL'S STARTUP COMPANY. THE
9 NAME IS LIGHT LOGIC.

10 AND THEY WERE BOTH VERY FORTUNATE AND
11 PROBABLY DID A LOT OF HARD WORK BUT ULTIMATELY
12 MR. VERDIELL'S STARTUP COMPANY LIGHT LOGIC WAS
13 ACQUIRED BY INTEL FOR APPROXIMATELY \$400 MILLION.
14 AND THAT THE PEOPLE WHO LIKE MR. LIN WHO INVESTED
15 EARLY, THE ANGEL INVESTORS TO THE STARTUP COMPANY
16 MADE ABOUT A HUNDRED TIMES OF WHAT HE PUT IN
17 INITIALLY.

18 AGAIN, THIS IS ALL ACCORDING TO MR. LIN'S
19 OWN BIOGRAPHY. MR. LIN LECTURES, GIVES SEMINARS,
20 TEACHES INVESTMENT TO NOT JUST TO NOVICE INVESTORS,
21 PEOPLE WHO ARE TRYING TO INVEST A THOUSAND DOLLARS.
22 MR. LIN GIVES THESE SEMINARS THESE COURSES, HE
23 LECTURES TO CFO'S CEO'S PEOPLE FROM ALL OVER THE
24 WORLD.

25 MR. LIN IS AND ALWAYS HAS BEEN AN

1 INVESTMENT EXPERT.

2 NOW, MR. LIN KNEW WHAT WAS IMPORTANT AND
3 HE KNEW WHAT WAS NOT IMPORTANT. IN FACT, THE
4 EVIDENCE WILL SHOW THAT MR. LIN MADE A LIVING
5 TEACHING PEOPLE, LECTURING TO PEOPLE AS TO WHAT IS
6 IMPORTANT AND WHAT IS NOT IMPORTANT.

7 AND THE EVIDENCE WILL SHOW THAT ANY OF
8 THE ALLEGED MISSTATEMENTS OR FALSE STATEMENTS WERE
9 NOT IMPORTANT TO MR. LIN. THE EVIDENCE WILL SHOW
10 THAT SOMETHING ELSE WAS GOING ON, THAT MR. LIN
11 COULD HAVE CARED LESS ABOUT, FOR EXAMPLE, WHETHER
12 OR NOT THERE WAS THE CPA FIRM, THE AUDITING FIRM OF
13 CASTILLO, LYN, COHEN & VIJAY, FOUR NAMES TOUGH TO
14 REMEMBER. MR. LIN WOULDN'T CARE LESS.

15 CONTRARY TO WHAT MR. LIN SAID REPEATEDLY
16 TO THE GOVERNMENT INCLUDING PUTTING A SWORN
17 STATEMENT IN WRITING THAT, HE RELIED ON THE FACT
18 THAT THERE WAS THIS AUDITING FIRM OF CASTILLO, LYN,
19 COHEN & VIJAY THAT HAD DONE THE AUDITING STATEMENT
20 OR HAD PREPARED THE AUDIT STATEMENTS FOR THE
21 ASENQUA BETA FUND.

22 MR. LIN NEVER BOTHERED TO CHECK TO SEE IF
23 THAT WAS INDEED A REAL FIRM. AND THE EVIDENCE WILL
24 SHOW THAT BACK IN 2005 WHEN MR. LIN FIRST MADE HIS
25 INITIAL INVESTMENT, OF COURSE THE BOARD OF

1 ACCOUNTANCY THAT COUNSEL REFERRED TO IN HIS OPENING
2 STATEMENT HAD A WEBSITE UP, ANYBODY COULD HAVE
3 LOOKED AND SEEN WHO WAS AND WHO WAS NOT LICENSED BY
4 THE STATE OF CALIFORNIA.

5 IF MR. LIN HAD CARED ABOUT WHETHER OR NOT
6 THIS CASTILLO, LYN, COHEN & VIJAY AUDITING FIRM WAS
7 ON THE UP AND UP AND LEGITIMATE, HE COULD HAVE
8 CHECKED THAT WEBSITE.

9 THE EVIDENCE WILL SHOW THAT WAS NOT A
10 MATERIAL REPRESENTATION OR STATEMENT TO MR. LIN.
11 SOMETHING ELSE WAS GOING ON.

12 REMEMBER, THIS WAS A MAN WHO WAS A
13 PROFESSIONAL INVESTOR WHO TAUGHT PEOPLE NOT JUST
14 ANY PEOPLE BUT CFO'S, CEO'S HOW TO INVEST.

15 WHAT WAS GOING ON? THE EVIDENCE WILL
16 SHOW THAT MR. LIN WAS NOT THIS NAIVE OUTSIDER WHO
17 JUST HAPPENED TO COME ACROSS MR. HU, WELL, HE LOOKS
18 LIKE A NICE GUY, I WILL INVEST IN HIM.

19 EVIDENCE WILL SHOW MR. LIN WAS A TRUE
20 INSIDER IN THE ASENQUA FAMILY TREE. THE EVIDENCE
21 WILL SHOW THIS CASE IS NOT ABOUT JUST THE ASENQUA
22 BETA, OR THIS FUND THAT IT BECAME SUBSEQUENTLY IN
23 2005, THE FIRESIDE LS FUND.

24 THE EVIDENCE WILL SHOW THAT THIS CASE IS
25 ABOUT A FAMILY TREE OF ASENQUA ENTITIES. AND THE

1 EVIDENCE WILL SHOW THAT NOT ONLY WAS MR. LIN AN
2 INVESTOR BUT HE WAS ALSO AGAIN, IN HIS OWN WORDS HE
3 WAS A MANAGING PARTNER OF ASENQUA VENTURES
4 MANAGEMENT. ONE PART OF THE ASENQUA FAMILY TREE.

5 MR. LIN HIMSELF SAID I PROVIDE ADVICE TO
6 THE ASENQUA ENTITIES AND I AM A MANAGING PARTNER OF
7 THE ONE OF THE ASENQUA ENTITIES.

8 MR. LIN ALSO TRAVELLED NOT JUST AROUND
9 THE BAY AREA, HE TRAVELLED THROUGHOUT ASIA, TOUTING
10 THE VIRTUES OF INVESTING IN THE ASENQUA ENTITIES
11 INCLUDING THE TWO FUNDS WE WERE TALKING ABOUT, THE
12 ASENQUA BETA FUND AND THE FUND IT TURNED INTO THE
13 FIRESIDE LS FUND.

14 MR. LIN NOT ONLY WENT AROUND ASIA TO TOUT
15 THE VIRTUES OF THE ASENQUA FUNDS, HE TRAVELLED WITH
16 THE ASENQUA BETA FUNDS PORTFOLIO MANAGER STEVEN
17 BOND. AND MR. LIN DIDN'T JUST DO THIS HE WAS
18 REIMBURSED FOR HIS TRAVEL EXPENSES TO THE TUNE OF
19 TENS OF THOUSANDS OF DOLLARS THROUGH THE YEARS.

20 IN FACT, MR. LIN EVEN GOT A \$3,000
21 INSURANCE COPAYMENT CHECK FROM THE ASENQUA VENTURES
22 MANAGEMENT COMPANY. MR. LIN WAS THE ULTIMATE
23 INSIDER IN ASENQUA.

24 AGAIN, THE EVIDENCE WILL SHOW THAT
25 WHATEVER WAS GOING ON, MR. LIN WAS NOT INFLUENCED

1 BY WHETHER OR NOT THERE WAS IN ACCOUNTING FIRM
2 CASTILLO, LYN, COHEN & VIJAY -- I'M GETTING BETTER
3 AT THOSE NAMES.

4 AND THERE WAS SOME REFERENCE IN COUNSEL'S
5 OPENING STATEMENT ABOUT MISLEADING RETURNS.

6 THE EVIDENCE WILL SHOW THAT MR. LIN WILL
7 NOW BE SAYING THAT, LOOK, BEFORE I INVESTED I WAS
8 SHOWN CERTAIN FANTASTIC RETURN NUMBERS ON THE
9 ASENQUA BETA. 30 PERCENT, 25 PERCENT, 40 PERCENT,
10 WHATEVER. YOU KNOW, THEY LOOKED GREAT, AND I WAS
11 MISLEAD.

12 THE EVIDENCE WILL SHOW THAT WHILE MR. LIN
13 MIGHT, BEFORE HE INVESTED, MIGHT HAVE BEEN SHOWN
14 SOME NUMBERS IN NOVEMBER OF 2004, HE MADE HIS
15 INITIAL INVESTMENT IN EARLY PART OF 2005. AND HE
16 WAS GIVEN CERTAIN NUMBERS OF VERY HIGH RETURNS BY
17 THE ASENQUA BETA FUND.

18 THE EVIDENCE WILL SHOW THAT LESS THAN TWO
19 YEARS LATER IN FEBRUARY OF 2006, MR. LIN PUT HIS
20 NAME, BOB LIN, ON AN ASENQUA POWER POINT
21 PRESENTATION TO PROMOTE THEIR HEDGE FUNDS AND TO
22 BRING IN NEW INVESTORS.

23 AND IN THAT POWER POINT PRESENTATION,
24 WHICH IS GOVERNMENT EXHIBIT -- THAT'S A GOVERNMENT
25 EXHIBIT THAT I ANTICIPATE WILL BE COMING INTO

1 EVIDENCE, THAT POWER POINT PRESENTATION LAYS OUT
2 THE ASENQUA FAMILY TREE.

3 AND IT ALSO LAYS OUT THE FACT THAT BOB
4 LIN WAS ONE OF THE KEY PARTNERS OF ONE OF THE
5 ASENQUA BRANCHES, THE ASENQUA VENTURE MANAGEMENT
6 GROUP.

7 WHAT'S MORE IMPORTANT IS THAT IN THAT
8 SAME POWER POINT PRESENTATION THERE WAS A PAGE
9 DEVOTED TO THE ANNUAL RETURNS OF THE ASENQUA BETA
10 FUND FOR THE YEARS FROM 2000 THROUGH 2005.

11 WHAT MR. LIN HAS SEEN BEFORE HE INVESTED
12 WERE THE SAME NUMBERS FROM 2000 TO 2003. SO
13 MR. LIN, THIS WORLDWIDE EXPERT IN INVESTMENT WHO
14 TEACHES, WHO IS AN INVESTMENT GURU WHO TEACHES
15 LECTURES AND GIVES SEMINARS ON HOW TO INVEST, HE
16 PUT HIS NAME ON THE VERY SAME NUMBERS THAT HE WILL
17 NOW TRY TO CLAIM THAT HE HAD BEEN MISLEAD BY.

18 THE EVIDENCE WILL NOT SHOW THAT THESE
19 NUMBERS WERE FALSE OR INCORRECT. WHAT THE EVIDENCE
20 WILL SHOW IS THAT BOB LIN MORE THAN A YEAR OR
21 ALMOST TWO YEARS AFTER HE BECAME A MEMBER OF THE
22 ASENQUA FAMILY, HE PUT HIS NAME ON TO THOSE SAME
23 NUMBERS. AND THE EVIDENCE WILL SHOW THAT HE HAD
24 NOT BEEN MISLEAD OR HE WOULD NOT HAVE BEEN INDUCED
25 BY ANYTHING THAT MR. HU HAD SAID.

1 AS TO THE SECOND GENTLEMAN, THE SECOND
2 GENTLEMAN WHOSE INVESTMENT IS THE BASIS FOR THE
3 SECOND SET OF CHARGES AGAINST MR. HU, HIS NAME IS
4 JEAN MARK VERDIELL. MR. VERDIELL IS AND HAS BEEN A
5 VERY, VERY, SUCCESSFUL ENTREPRENEUR. HIS COMPANY
6 LIGHT LOGIC LIKE I SAID, WAS A COMPANY THAT MR. LIN
7 HAD INVESTED IN WAY BACK NEAR THE TURN OF THE
8 MILLENNIUM AND THEY BOTH DID INCREDIBLY WELL.

9 LIGHT LOGIC WAS ACQUIRED BY INTEL AS I
10 SAID BEFORE AND MADE A HUNDRED OF MILLIONS OF
11 DOLLARS AND THE INITIAL INVESTORS LIKE MR. LIN MADE
12 HUNDRED TIMES THEIR INITIAL INVESTMENT.

13 MR. VERDIELL WAS NOT AND IS NOT AN
14 INVESTMENT GURU LIKE MR. LIN. THE EVIDENCE WILL
15 SHOW THAT MR. VERDIELL IS A BUSINESS PERSON, IS A
16 VERY, VERY GOOD BUSINESS PERSON. BUT THE EVIDENCE
17 WILL SHOW THAT MR. LIN AND MR. VERDIELL HAD A
18 WORKING RELATIONSHIP.

19 AND THE EVIDENCE WILL SHOW THAT
20 MR. VERDIELL WAS INTRODUCED TO THE ASENQUA FAMILY
21 BY MR. LIN. MR. LIN BROUGHT IN THE MR. VERDIELL
22 ABOUT TWO AND A HALF YEARS AFTER MR. LIN HAD MADE
23 HIS INITIAL INVESTMENT IN THE ASENQUA FAMILY AND
24 AFTER MR. LIN HAD BEEN GOING AROUND THE WORLD
25 TOUTING THE VIRTUES OF ASENQUA, PUTTING HIS NAME

1 INTO A POWER POINT PRESENTATION THAT HAD THE SAME
2 NUMBERS FOR THE YEARS 2000 TO 2003 THAT HE NOW IS
3 ALLEGING THAT HE WILL BE MISLEAD BY.

4 MR. VERDIELL WILL TESTIFY THAT IN LARGE
5 PART, NOT THE ONLY PART, BUT IN LARGE PART HE MADE
6 THE INVESTMENT, HE MADE A ONE TIME INVESTMENT, A
7 LOT OF MONEY, \$2 MILLION, A LOT OF MONEY. HE MADE
8 A ONE TIME INVESTMENT INTO THE FIRESIDE LS FUND
9 WHICH IS THE SECOND GENERATION, IF YOU WILL OF WHAT
10 THE ASENQUA BETA FUND HAD BECOME.

11 MR. VERDIELL MADE HIS ONE TIME INVESTMENT
12 OF A LOT OF MONEY, NO MATTER HOW RICH SOMEBODY IS
13 THAT'S A LOT OF MONEY. MR. VERDIELL MADE THAT
14 INVESTMENT IN LARGE PART, NOT THE ONLY PART,
15 BECAUSE HIS INVESTMENT GURU, THE GUY HE CONSIDERS
16 TO BE A PROFESSIONAL INVESTOR AND A GUY THAT HE
17 SAID HE TRUSTED AND VALUED HIS OPINIONS ON
18 INVESTMENTS, BOB LIN, BOB LIN MADE THE
19 RECOMMENDATION TO MR. VERDIELL AND MR. VERDIELL
20 INVESTED.

21 AGAIN, WILL EVIDENCE WILL SHOW THEY WERE
22 FALSE STATEMENTS. AND THE EVIDENCE MIGHT NOT SHOW
23 IF A PARTICULAR STATEMENT WAS FALSE OR NOT. THERE
24 MIGHT BE A TUG OF WAR. BUT THE EVIDENCE WILL
25 CLEARLY SHOW THAT AS TO THE TWO INDIVIDUALS WHO ARE

1 INVOLVED IN THIS PARTICULAR CASE, NEVER MIND
2 ANYBODY ELSE, MR. LIN AND MR. VERDIELL THEY WERE
3 NOT MATERIAL IN THEIR DECISION MAKING IN TERMS OF
4 WHY THEY MADE THE INVESTMENTS THEY DID.

5 THE GOVERNMENT IS LIKELY TO PRESENT A
6 THIRD INVESTOR, A MR. YAN, ANDY YAN WHO ALSO MADE
7 INVESTMENTS. WHAT'S INTERESTING ABOUT MR. YAN IS
8 THAT, EVIDENCE WILL SHOW THAT HE MADE A STATEMENT
9 TO MR. VERDIELL THAT KIND OF SUMS UP WHAT THIS CASE
10 IS REALLY ABOUT.

11 MR. YAN TOLD MR. VERDIELL, YEAH, I HAD
12 INVESTED WITH MR. HU AND BUT BEFORE I INVESTED WITH
13 MR. HU I HAD KNOWN THAT HE WASN'T TRUSTWORTHY, THAT
14 HE MIGHT HAVE LIED ON OCCASIONS, I DIDN'T TRUST
15 HIM, BUT GUESS WHAT, KNOWING ALL OF THAT, I STILL
16 INVESTED WITH MR. HU OR HIS COMPANY, THE ASENQUA
17 FAMILY.

18 THAT STATEMENT KIND OF SUMS UP WHAT THE
19 EVIDENCE WILL POINT TO AT THE END OF THIS CASE.
20 THAT YES, THERE MIGHT HAVE BEEN FALSE STATEMENTS,
21 THERE MIGHT HAVE BEEN MISREPRESENTATIONS BUT
22 HOWEVER NONE OF THEM WAS MATERIAL IN TERMS OF
23 INFLUENCING THE TWO PEOPLE BOB LIN AND JEAN MARK
24 VERDIELL IN TERMS OF INVESTING THE ASENQUA AND
25 FIRESIDE FUNDS.

1 THANK YOU VERY MUCH FOR YOUR ATTENTION, I
2 REALLY APPRECIATE IT.

3 THE COURT: ALL RIGHT.

4 MR. FAZIOLI, DO YOU WANT TO CALL YOUR
5 FIRST WITNESS?

6 MR. FAZIOLI: YOUR HONOR, BEFORE WE CALL
7 OUR FIRST WITNESS, WITH LEAVE OF THE COURT, I WOULD
8 LIKE TO READ A STIPULATION INTO THE RECORD.

9 THE COURT: ALL RIGHT.

10 MR. FAZIOLI: THIS IS A TRIAL
11 STIPULATION, NUMBER 1, FINANCIAL RECORDS.

12 THE UNITED STATES OF AMERICA AND
13 DEFENDANT ALBERT -- I WILL JUST PREFACE BY SAYING
14 THIS WILL TAKE A LITTLE WHILE BUT I THINK IT WILL
15 ULTIMATELY SAVE TIME.

16 THE DEFENDANT THE UNITED STATES OF
17 AMERICA TRIAL STIPULATION 1 OF FINANCIAL RECORDS:

18 THE UNITED STATES OF AMERICA AND
19 DEFENDANT ALBERT KE-JENG HU HEREBY STIPULATE FOR
20 PURPOSES OF THIS TRIAL ACTION THAT THE FOLLOWING
21 FACTS ARE CONCLUSIVELY ESTABLISHED BEYOND A
22 REASONABLE DOUBT AND THEREFORE ARE NOT IN DISPUTE:

23 ONE, THE DOCUMENTS MARKED FOR
24 IDENTIFICATION AS EXHIBIT 220 HU101901(A) TO
25 HU1964(A), AND THERE'S OTHER BATES NUMBERS LISTED

1 THERE, ARE TRUE AND ACCURATE BUSINESS RECORDS OF
2 CREDIT SWISS SINGAPORE THAT ARE MAINTAINED BY
3 CREDIT SWISS SINGAPORE IN THE NORMAL COURSE OF ITS
4 BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER RULE
5 FEDERAL RULE OF EVIDENCE 8036.

6 TWO, DOCUMENTS MARKED FOR IDENTIFICATION
7 AS EXHIBIT 221 ARE TRUE AND ACCURATE BUSINESS
8 RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
9 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
10 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
11 UNDER FEDERAL RULE OF EVIDENCE 8036.

12 THREE, THE DOCUMENTS MARKED FOR
13 IDENTIFICATION AS EXHIBIT 222 ARE TRUE AND ACCURATE
14 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT WAS
15 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
16 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
17 UNDER FEDERAL RULE OF EVIDENCE 8036.

18 FOUR, THE DOCUMENTS MODIFICATION AS
19 EXHIBIT 223 ARE TRUE AND ACCURATE BUSINESS RECORDS
20 OF CREDIT SWISS SINGAPORE THAT ARE MAINTAINED BY
21 CREDIT SWISS SINGAPORE IN THE NORMAL COURSE OF ITS
22 BUSINESS ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE
23 OF EVIDENCE 8036.

24 FIVE, THE DOCUMENTS MARKED FOR
25 IDENTIFICATION AS EXHIBIT 224, ARE TRUE AND

1 ACCURATE BUSINESS RECORDS OF CREDIT SWISS SINGAPORE
2 THAT ARE MAINTAINED BY CREDIT SWISS SINGAPORE IN
3 THE NORMAL COURSE OF ITS BUSINESS AND ARE
4 ADMISSIBLE UNDER FEDERAL RULE OF EVIDENCE 8036.

5 SIX, THE DOCUMENTS MARKED FOR
6 IDENTIFICATION AS EXHIBIT 225 ARE TRUE AND ACCURATE
7 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE AND ARE
8 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
9 COURSE OF BUSINESS AND ARE ADMISSIBLE UNDER FEDERAL
10 RULE OF EVIDENCE 8036.

11 SEVEN, THE DOCUMENTS MARKED FOR
12 IDENTIFICATION AS EXHIBIT 226 ARE TRUE AND ACCURATE
13 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
14 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
15 COURSE OF ITS BUSINESS ARE ADMISSIBLE AS MUCH UNDER
16 FEDERAL RULE OF EVIDENCE 8036.

17 EIGHT, THE DOCUMENTS MARKED FOR
18 IDENTIFICATION AS EXHIBIT 227, ARE TRUE AND
19 ACCURATE BUSINESS RECORDS OF CREDIT SWISS SINGAPORE
20 THAT ARE MAINTAINED BY CREDIT SWISS SINGAPORE IN
21 THE NORMAL COURSE OF HIS BUSINESS AND ARE
22 ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF EVIDENCE
23 8036.

24 NINE, THE DOCUMENTS MARKED FOR
25 IDENTIFICATION AS EXHIBIT 228 ARE TRUE AND ACCURATE

1 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
2 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
3 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
4 UNDER FEDERAL RULE OF EVIDENCE 8036.

5 10, THE DOCUMENTS MARKED FOR
6 IDENTIFICATION AS EXHIBIT 229 ARE TRUE AND ACCURATE
7 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE AND ARE
8 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
9 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
10 UNDER FEDERAL RULE OF EVIDENCE 8036.

11 11, DOCUMENTS MARKED FOR IDENTIFICATION
12 AS EXHIBIT 230 ARE TRUE AND ACCURATE BUSINESS
13 RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
14 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
15 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
16 UNDER FEDERAL RULE OF EVIDENCE 8036.

17 12, THE DOCUMENTS MARKED FOR
18 IDENTIFICATION AS EXHIBIT 231 ARE TRUE AND ACCURATE
19 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
20 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
21 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
22 UNDER FEDERAL RULE OF EVIDENCE 8036.

23 13, THE DOCUMENTS MARKED FOR
24 IDENTIFICATION AS EXHIBIT 23 ARE TRUE AND ACCURATE
25 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE

1 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
2 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
3 UNDER FEDERAL RULE OF EVIDENCE 8036.

4 14, THE DOCUMENTS MARKED FOR
5 IDENTIFICATION AS EXHIBIT 233 ARE TRUE AND ACCURATE
6 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
7 MAINTAINED BY CREDIT SWISS SINGAPORE IN THE NORMAL
8 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
9 UNDER FEDERAL RULE OF EVIDENCE 8036.

10 15, THE DOCUMENTS MARKED FOR
11 IDENTIFICATION AS EXHIBIT 234 ARE TRUE AND ACCURATE
12 BUSINESS RECORDS OF CREDIT SWISS SINGAPORE THAT ARE
13 MAINTAINED BY CREDIT SWISS SINGAPORE IN ITS NORMAL
14 COURSE OF BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
15 FEDERAL RULE OF EVIDENCE 836.

16 16, DOCUMENTS MARKED FOR IDENTIFICATION
17 AS EXHIBIT 235 ARE TRUE AND ACCURATE RECORDS OF
18 BANK OF SARASIN-RABO, THAT ARE MAINTAINED BY BANK
19 OF SARASIN-RABO AND ARE IN THE NORMAL COURSE OF ITS
20 BUSINESS ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE
21 OF EVIDENCE 8036.

22 17, THE DOCUMENTS MARKED FOR
23 IDENTIFICATION AS EXHIBIT 236 ARE TRUE AND ACCURATE
24 BUSINESS RECORDS OF WELLS FARGO BANK THAT ARE
25 MAINTAINED BY WELLS FARGO BANK IN THE NORMAL COURSE

1 OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
2 FEDERAL RULE OF EVIDENCE 8036.

3 18, THE DOCUMENTS MARKED FOR
4 IDENTIFICATION AS EXHIBIT 237 ARE TRUE AND ACCURATE
5 BUSINESS RECORDS OF WELLS FARGO BANK THAT ARE
6 MAINTAINED BY WELLS FARGO BANK IN THE NORMAL COURSE
7 OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
8 FEDERAL RULE OF EVIDENCE 8036.

9 19, THE DOCUMENTS MARKED FOR
10 IDENTIFICATION AS EXHIBIT 238 ARE TRUE AND ACCURATE
11 BUSINESS RECORDS OF WELLS FARGO BANK THAT ARE
12 MAINTAINED BY WELLS FARGO IN THE NORMAL COURSE OF
13 ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
14 FEDERAL RULE OF EVIDENCE 8036.

15 20, THE DOCUMENTS MARKED FOR
16 IDENTIFICATION AS EXHIBIT 239 ARE TRUE AND ACCURATE
17 BUSINESS RECORDS OF CHINA TRUST BANK AS MAINTAINED
18 BY CHINA TRUST BANK IN THE NORMAL COURSE OF ITS
19 BUSINESS ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE
20 OF EVIDENCE 8036.

21 21, THE DOCUMENTS MARKED FOR
22 IDENTIFICATION AS EXHIBIT 240 ARE TRUE AND ACCURATE
23 BUSINESS RECORDS OF HSBC BANK THAT ARE MAINTAINED
24 BY HSBC BANK IN THE NORMAL COURSE OF ITS BUSINESS
25 AND ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF

1 EVIDENCE 8036.

2 22, THE DOCUMENTS MARKED FOR
3 IDENTIFICATION AS EXHIBIT 241 ARE TRUE AND ACCURATE
4 BUSINESS RECORDS OF WASHINGTON MUTUAL AND ITS
5 SUCCESSOR, CHASE BANK, THAT ARE MAINTAINED BY CHASE
6 BANK IN THE NORMAL COURSE OF ITS BUSINESS AND ARE
7 ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF EVIDENCE
8 8036.

9 23, THE DOCUMENTS MARKED FOR
10 IDENTIFICATION AS EXHIBIT 242 ARE TRUE AND ACCURATE
11 BUSINESS RECORDS OF U.S. BANK THAT ARE MAINTAINED
12 BY U.S. BANK IN THE NORMAL COURSE OF ITS BUSINESS
13 AND ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF
14 EVIDENCE 8036.

15 24, THE DOCUMENTS MARKED FOR
16 IDENTIFICATION AS EXHIBIT 243 ARE TRUE AND ACCURATE
17 BUSINESS RECORDS OF U.S. BANK THAT ARE MAINTAINED
18 BY U.S. BANK IN THE NORMAL COURSE OF ITS BUSINESS
19 ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF
20 EVIDENCE 8036.

21 25, THE DOCUMENTS MARKED FOR
22 IDENTIFICATION AS EXHIBIT 244 ARE TRUE AND ACCURATE
23 BUSINESS RECORDS OF U.S. BANK THAT ARE MAINTAINED
24 BY U.S. BANK IN THE NORMAL COURSE OF ITS BUSINESS
25 ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF

1 EVIDENCE 8036.

2 AND THERE ARE 37 OF THESE ENTRIES, AND WE
3 ARE NOW ON NUMBER 26.

4 26, THE DOCUMENT MARKED FOR
5 IDENTIFICATION AS EXHIBIT 245 ARE TRUE AND ACCURATE
6 BUSINESS RECORDS OF BANK OF AMERICA THAT ARE
7 MAINTAINED BY BANK OF AMERICA IN THE NORMAL COURSE
8 OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
9 FEDERAL RULE OF EVIDENCE 8036.

10 27, DOCUMENTS MARKED FOR IDENTIFICATION
11 AS EXHIBIT 246 ARE TRUE AND ACCURATE BUSINESS
12 RECORDS OF THE BANK OF AMERICA THAT ARE MAINTAINED
13 BY BANK OF AMERICA IN THE NORMAL COURSE OF ITS
14 BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER FEDERAL
15 RULE OF EVIDENCE 8036.

16 28, DOCUMENTS MARKED FOR IDENTIFICATION
17 AS EXHIBIT 247 ARE TRUE AND ACCURATE BUSINESS
18 RECORDS OF FIRST REPUBLIC BANK THAT ARE MAINTAINED
19 BY FIRST REPUBLIC BANK IN THE NORMAL COURSE OF ITS
20 BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER FEDERAL
21 RULE OF EVIDENCE 8036.

22 29, THE DOCUMENTS MARKED FOR
23 IDENTIFICATION AS EXHIBIT 248 ARE TRUE AND ACCURATE
24 BUSINESS RECORDS OF FIRST REPUBLIC BANK THAT ARE
25 MAINTAINED BY FIRST REPUBLIC BANK IN THE NORMAL

1 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH
2 UNDER FEDERAL RULE OF EVIDENCE 8036.

3 30, THE DOCUMENTS MARKED FOR
4 IDENTIFICATION AS EXHIBIT 249 ARE TRUE AND ACCURATE
5 BUSINESS RECORDS OF FIRST REPUBLIC BANK THAT ARE
6 MAINTAINED BY FIRST REPUBLIC BANK IN THE NORMAL
7 COURSE OF BUSINESS ARE ADMISSIBLE AS SUCH UNDER
8 FEDERAL RULE OF EVIDENCE 8036.

9 31, THE DOCUMENTS MARKED FOR
10 IDENTIFICATION AS EXHIBIT 250 ARE TRUE AND ACCURATE
11 BUSINESS RECORDS OF FIRST REPUBLIC BANK THAT ARE
12 MAINTAINED BY FIRST REPUBLIC BANK IN THE NORMAL
13 COURSE OF BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
14 FEDERAL RULE OF EVIDENCE 8036.

15 32, THE DOCUMENTS MARKED FOR
16 IDENTIFICATION AS EXHIBIT 251 ARE TRUE AND ACCURATE
17 BUSINESS RECORDS OF FIRST REPUBLIC BANK THAT ARE
18 MAINTAINED BY FIRST REPUBLIC BANK IN THE NORMAL
19 COURSE OF ITS BUSINESSES ARE ADMISSIBLE AS SUCH
20 UNDER FEDERAL RULE OF EVIDENCE 8036.

21 33, THE DOCUMENT MARKED FOR
22 IDENTIFICATION AS -- DOCUMENTS MARKED FOR
23 IDENTIFICATION AS EXHIBIT 252, ARE TRUE AND
24 ACCURATE BUSINESS RECORDS OF U.S. BANK THAT ARE
25 MAINTAINED BY U.S. BANK IN THE NORMAL COURSE OF ITS

1 BUSINESS ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE
2 OF EVIDENCE 8036.

3 34, THE DOCUMENTS MARKED FOR
4 IDENTIFICATION AS EXHIBIT 257 ARE TRUE AND ACCURATE
5 BUSINESSES OF WASHINGTON MUTUAL THAT ARE MAINTAINED
6 BY JP MORGAN CHASE IN THE NORMAL COURSE OF BUSINESS
7 AND ARE ADMISSIBLE AS SUCH UNDER FEDERAL RULE OF
8 EVIDENCE 8036.

9 35, THE DOCUMENTS MARKED FOR
10 IDENTIFICATION AS EXHIBIT 276 ARE TRUE AND ACCURATE
11 BUSINESS RECORDS OF SINOPAC BANK THAT ARE
12 MAINTAINED BY SINOPAC BANK IN THE NORMAL COURSE OF
13 ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
14 FEDERAL RULE OF EVIDENCE 8036.

15 36, THE DOCUMENTS MARKED FOR
16 IDENTIFICATION AS EXHIBIT 277 ARE THE TRUE AND
17 ACCURATE BUSINESS RECORDS OF AMERICAN BANK THAT ARE
18 MAINTAINED BY AMERICAN BANK AS IN THE NORMAL COURSE
19 OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH UNDER
20 FEDERAL RULE OF EVIDENCE 8036.

21 AND LASTLY 37, THE DOCUMENTS MARKED FOR
22 IDENTIFICATION AS EXHIBIT 278 ARE TRUE AND ACCURATE
23 BUSINESS RECORDS OF WASHINGTON MUTUAL THAT ARE
24 MAINTAINED BY WASHINGTON MUTUAL IN THE NORMAL
25 COURSE OF ITS BUSINESS AND ARE ADMISSIBLE AS SUCH

1 UNDER FEDERAL RULE OF EVIDENCE 8036.

2 THE STIPULATION ALSO INCLUDES SPECIFIC
3 BATES NUMBERS WHICH ARE REFERENCES TO THE PAGES
4 WITHIN THE VARIOUS EXHIBITS, AND THOSE -- I HAVEN'T
5 READ THOSE NUMBERS BUT THEY ARE IN THE STIPULATION.

6 IT IS SO STIPULATED. DATED YESTERDAY,
7 SIGNED BY MYSELF, COUNSEL FOR DEFENDANT JERRY FONG,
8 AND THE DEFENDANT HIMSELF.

9 THE COURT: ALL RIGHT.

10 BASICALLY I THINK IT'S CLEAR THE EVIDENCE
11 CODE PROVIDES THAT RECORDS OF A REGULARLY CONDUCTED
12 BUSINESS ACTIVITY ARE ADMISSIBLE IN EVIDENCE AND
13 THE PARTIES HAVE AGREED THAT THE RECORDS OF THESE
14 INSTITUTIONS ARE ADMISSIBLE AND ARE THE RECORDS OF
15 THE INSTITUTIONS AND CAN BE CONSIDERED BY YOU.

16 MR. FAZIOLI: AND YOUR HONOR, AT THIS
17 POINT, AND I THINK WITHOUT OBJECTION FROM THE
18 DEFENSE, WE WOULD MOVE INTO EVIDENCE THE EXHIBITS,
19 THE FINANCIAL EXHIBITS THAT ARE REFERENCED IN THAT
20 STIPULATION NAMELY EXHIBITS 220, THROUGH 252,
21 EXHIBIT 257 AND EXHIBIT 276 THROUGH 278.

22 THE COURT: ALL RIGHT.

23 THOSE ARE ADMITTED.
24
25

1 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBERS 220 THROUGH
2 252, 257, 276 AND 278 HAVING BEEN PREVIOUSLY MARKED
3 FOR IDENTIFICATION, WERE ADMITTED INTO EVIDENCE.)

4 MR. FAZIOLI: THANK YOU, YOUR HONOR.

5 MR. FAZIOLI: AND YOUR HONOR, WE ARE
6 GOING TO READ THE TWO OTHER STIPULATIONS BRIEFLY.

7 THE COURT: ALL RIGHT.

8 MR. FAZIOLI: THERE ARE TWO MORE
9 STIPULATIONS.

10 FIRST IS TRIAL STIPULATION NUMBER TWO.
11 WIRE TRANSFERS AND COMMUNICATIONS.

12 THE UNITED STATES OF AMERICA AND
13 DEFENDANT ALBERT KE-JENG HU HEREBY STIPULATE FOR
14 PURPOSES OF THE TRIAL OF THIS ACTION THAT THE
15 FOLLOWING FACTS ARE CONCLUSIVELY ESTABLISHED BEYOND
16 A REASONABLE DOUBT AND THEREFORE ARE NOT IN
17 DISPUTE:

18 THE FOLLOWING WIRE TRANSFERS OR WIRE
19 COMMUNICATIONS OCCURRED ON OR ABOUT THE DATES SET
20 FORTH BELOW. EACH WIRE TRANSMITTED OR CAUSED TO BE
21 TRANSMITTED, SIGNALS IN AND AFFECTING INTERSTATE
22 FOREIGN COMMERCE OR COMMUNICATION.

23 FIRST, ON FEBRUARY 8TH, 2005 AN
24 INTERSTATE WIRE TRANSFER OF A HUNDRED THOUSAND
25 DOLLARS SENT BY OR ON THE BEHALF OF MR. LIN TO A

1 BANK OF AMERICA ACCOUNT ENDING IN 6581.

2 NEXT, FEBRUARY 23RD, 2005 AN INTERSTATE
3 WIRE TRANSFER OF A HUNDRED THOUSAND DOLLARS SENT BY
4 OR ON THE BEHALF OF MR. LIN TO A BANK OF AMERICA
5 ACCOUNT ENDING IN 6581.

6 NEXT, ON 7-6-05, AN INTERSTATE WIRE
7 TRANSFER OF \$250,000 SENT BY OR ON THE BEHALF OF
8 MR. LIN TO A BANK OF AMERICA ACCOUNT ENDING IN
9 6581.

10 NEXT, ON 4-27-07 AN INTERSTATE WIRE
11 TRANSFER DIRECTING THAT A \$2 MILLION WIRE TRANSFER
12 BE SENT BY OR ON THE BEHALF OF MR. VERDIELL TO A
13 CREDIT SWISS ACCOUNT ENDING IN 1780.

14 4-30-07, AN INTERSTATE WIRE TRANSFER OF
15 \$2 MILLION SENT BY OR ON THE BEHALF OF MR. VERDIELL
16 TO A CREDIT SWISS ACCOUNT ENDING IN 1780.

17 6-19-07, AN INTERSTATE WIRE COMMUNICATION
18 DIRECTING THAT A \$250,000 WIRE TRANSFER BE SENT BY
19 OR ON THE BEHALF OF MR. LIN TO A CREDIT SWISS
20 ACCOUNT ENDING IN 1780.

21 AND LASTLY, 6-19-07, AN INTERNATIONAL
22 WIRE TRANSFER OF \$250,000 WIRE TRANSFER SENT BY OR
23 ON THE BEHALF OF MR. LIN TO A CREDIT SWISS ACCOUNT
24 ENDING IN 1780.

25 IT IS SO STIPULATED, SIGNED YESTERDAY BY

1 ASSISTANT UNITED STATES ATTORNEY JOSEPH FAZIOLI,
2 JERRY FONG COUNSEL FOR THE DEFENDANT, AND THE
3 DEFENDANT HIMSELF.

4 LASTLY, TRIAL STIPULATION NUMBER THREE,
5 CAPITOL ONE VISA ACCOUNT.

6 THE UNITED STATES OF AMERICA AND
7 DEFENDANT ALBERT KE-JENG HU HEREBY STIPULATE FOR
8 PURPOSES OF THE TRIAL OF THIS ACTION THAT THE
9 FOLLOWING FACTS ARE CONCLUSIVELY ESTABLISHED BEYOND
10 A REASONABLE DOUBT AND THEREFORE ARE NOT IN
11 DISPUTE:

12 BETWEEN 2000 AND 2009, THE DEFENDANT
13 ALBERT KE-JENG HU WAS THE ACCOUNT HOLDER FOR THE
14 CAPITOL ONE VISA ACCOUNT WITH THE NUMBER OF
15 4121742619993085.

16 IT IS SO STIPULATED. SIGNED YESTERDAY BY
17 MYSELF, ASSISTANT UNITED STATES ATTORNEY JOSEPH
18 FAZIOLI, JERRY FONG COUNSEL FOR THE DEFENDANT, AND
19 THE DEFENDANT HIMSELF.

20 THANK YOU.

21 THE COURT: DO YOU WANT TO CALL YOUR
22 FIRST WITNESS?

23 MR. LUCEY: YOUR HONOR, THE GOVERNMENT
24 CALLS FUYUAN BOB LIN TO THE STAND.

25 THE COURT: ALL RIGHT.

1 MR. LUCEY: YOUR HONOR, I UNDERSTAND IT
2 MIGHT BE JUST A MOMENT FOR MR. LIN TO ARRIVE:

3 THE CLERK: COME FORWARD AND I WILL SWEAR
4 YOU IN.

5
6 **FUYUAN BOB LIN,**
7 BEING CALLED AS A WITNESS ON BEHALF OF THE
8 PLAINTIFF, HAVING BEEN FIRST DULY SWORN, WAS
9 EXAMINED AND TESTIFIED AS FOLLOWS:

10 THE WITNESS: I DO.

11 THE CLERK: THANK YOU.

12 TAKE THE STAND THERE, PLEASE. FOR THE
13 RECORD PLEASE STATE YOUR FULL NAME AND SPELL YOUR
14 FIRST AND LAST NAME.

15 THE WITNESS: FUYUAN LIN, L-I-N.

16 THE CLERK: THANK YOU.

17

18 **DIRECT-EXAMINATION BY MR. LUCEY**

19

20 BY MR. LUCEY:

21 Q. GOOD MORNING.

22 A. GOOD MORNING.

23 Q. MR. LIN, DO YOU GO BY ANY OTHER NAME BESIDES
24 FUYUAN?

25 A. YES. I'M ALSO KNOWN AS BOB LIN, BOB.

1 Q. AND MR. LIN, WHERE DO YOU CURRENTLY RESIDE?

2 A. I RESIDE IN SARATOGA.

3 Q. AND BEFORE THAT WHERE DID YOU RESIDE?

4 A. CUPERTINO.

5 Q. AND YOU LIVED IN THE BAY AREA FOR HOW LONG?

6 A. SINCE 1978. 30-SOMETHING YEARS.

7 Q. MR. LIN, HOW ARE YOU FEELING TODAY?

8 A. I'M OKAY. JUST CHRONIC -- SOME BREATHING
9 PROBLEM.

10 Q. SO DO YOU HAVE ANY SORT OF A HEALTH CONDITION
11 THAT MAY AFFECT DURING THE COURSE OF YOUR TESTIMONY
12 TODAY YOUR SPEAKING PATTERN?

13 A. NO, SOMETIMES I MAY BREATHE THROUGH MY MOUTH
14 BUT I'M GENERALLY HEALTHY, BUT THIS IS MANY YEARS
15 OF BREATHING PROBLEM.

16 Q. BUT YOU ARE DOING FINE?

17 A. YEAH, I'M FINE.

18 Q. MR. LIN ARE YOU CURRENTLY EMPLOYED?

19 A. I'M SEMI-RETIRED. I WORK ON THE TWO BOARDS OF
20 A START UP HELPING ENTREPRENEURS START UP BUSINESS.
21 AND THE OTHER HALF OF THE TIME I WORK AS AN ON THE
22 BOARD OF AN EDUCATIONAL FOUNDATION WHICH IS
23 NONPROFIT HELPING YOUNG PEOPLE FROM TWO SIDES OF
24 THE PACIFIC OCEAN TO LEARN ABOUT EACH OTHER.

25 Q. AND MR. LIN, DO YOU KNOW AN INDIVIDUAL NAMED

1 ALBERT HU?

2 A. YES.

3 Q. HOW DID YOU COME TO KNOW HIM?

4 A. INITIALLY, BACK IN LATE 90'S I WAS A MEMBER OR
5 CHAIRMAN -- HAD AN ASSOCIATION CALLED CHINESE
6 ASSOCIATION OF INTERNATIONAL TRADE. AND THIS IS
7 ONE OF THOSE NONPROFIT COMMUNITY SERVICES
8 ASSOCIATION, AND WE HAVE ACTIVITIES.

9 AND I BELIEVE ONE TIME MR. HU CAME TO OUR
10 ACTIVITY AS A DEDICATION TO VISIT TAIWAN. THAT WAS
11 ONE TIME, BRIEF. ALSO, ANOTHER TIME I WAS INVITED
12 BY MR. HU TO LISTEN TO HIS PROPOSAL, THIS IS IN THE
13 LATE NINETIES, I BELIEVE AT THAT TIME HE WAS TRYING
14 TO RAISE FUNDS FOR HIS SEMICONDUCTOR EQUIPMENT
15 COMPANY. THAT WAS ALSO ONE TIME I LISTENED TO
16 PROPOSAL QUITE OFTEN.

17 Q. SO YOU'VE KNOWN HIM FOR SOME TIME NOW?

18 A. IN THE -- AND THEN SINCE THOSE TWO ENCOUNTERS
19 THERE WAS NO MORE CONTACT OR ENGAGEMENT, NOTHING,
20 UNTIL ENCOUNTER AROUND 2004, YES.

21 MAY I HELP MYSELF TO THE WATER?

22 Q. YES, MR. LIN THERE MAY BE A GLASS OF WATER IN
23 FRONT OF YOU THAT'S ALREADY BEEN POURED.

24 MR. LIN DO YOU SEE MR. HU SITTING IN THE
25 COURTROOM TODAY?

1 A. YES.

2 Q. CAN YOU DESCRIBE WHERE HE'S SITTING?

3 A. HE'S SITTING AT THE TABLE.

4 Q. AND WHAT IS HE WEARING?

5 A. A PINK SHIRT.

6 MR. LUCEY: YOUR HONOR, I WOULD ASK THE
7 RECORD REFLECT THE DEFENDANT IDENTIFIED MR. HU.

8 THE COURT: OKAY.

9 BY MR. LUCEY:

10 Q. SO MR. LIN, AT SOME POINT AFTER THE INITIAL
11 MEETINGS YOU DISCUSSED A MOMENT AGO THAT OCCURRED
12 IN THE LATE 90'S YOU HAD ANOTHER CHANCE ENCOUNTER
13 WITH HIM SOMETIME AFTER THAT?

14 A. 2004.

15 Q. AND WHAT WAS THE CIRCUMSTANCES OF THAT MEETING
16 IN OR AROUND 2004?

17 A. I BELIEVE IT WAS IN THE JAPANESE RESTAURANT IN
18 CUPERTINO. HE WAS WITH SOMEONE ELSE I WAS WITH
19 SOMEONE ELSE AND WE SAY HELLO, THEN THAT WAS IT.

20 Q. DID YOU MAKE ANY MANS TO HAVE ANY FURTHER
21 MEETING AFTER THAT?

22 A. NO HE CONTACTED ME AFTERWARDS.

23 Q. DO YOU RECALL WHAT HE CONTACTED YOU IN REGARD
24 TO?

25 A. HE CAME TO MY OFFICE AT THE TIME TO PRESENT

1 HIS HEDGE FUND AND SO I SAY, YEAH, PLEASE COME IN.
2 BECAUSE AGAIN, IN MY BUSINESS DURING THOSE DAYS I
3 RECEIVED PROPOSALS VERY OFTEN AND I REVIEWED MANY,
4 MANY PROPOSAL PEOPLE SEEKING HELP, SEEKING START
5 UP, LAUNCHING BUSINESS.

6 Q. AND DO YOU RECALL WHAT KIND OF PROPOSAL MR. HU
7 WAS MAKING ON THIS OCCASION?

8 A. YEAH. HE CAME TO SEE ME JOINTLY WITH A
9 GENTLEMAN CALLED MR. STEVE BOND.

10 Q. LET ME STOP YOU THERE, DID YOU UNDERSTAND WHAT
11 MR. BOND'S ROLE WAS AT THAT MEETING?

12 A. I BELIEVE MR. BOND WORKED FOR MR. HU.

13 Q. AND AGAIN, WHAT WAS THE NATURE OF MR. HU'S
14 PROPOSAL ON THAT OCCASION?

15 A. YES, PARDON ME. HE CAME TO PRESENT HIS HEDGE
16 FUND, I BELIEVE IT WAS CALLED ASENQUA BETA FUND,
17 THAT ACCORDING TO HIM HE HAS BEEN -- HE FOUND IT,
18 CREATED IT AND HAS BEEN MANAGING IT VERY
19 SUCCESSFULLY IN THE PAST FEW YEARS.

20 Q. AND MR. LIN, AT THAT TIME IN 2004, WHAT WAS
21 YOUR UNDERSTANDING ABOUT WHAT A HEDGE FUND DID?

22 A. ALLOW ME, MY PROFESSION HAS BEEN MOSTLY
23 VENTURE CAPITOL AND MY EXPERTISE IS MOSTLY IN
24 HELPING ENTREPRENEUR, LIKE IN THE SILICON VALLEY
25 SPIRIT, HELPING YOUNG PEOPLE START BUSINESS. AND

1 IN FACT I WAS NOT VERY GOOD AT INVESTING IN THE
2 MARKET WHICH IS MY --

3 THE COURT: OKAY, THE QUESTION WAS WHAT
4 WAS YOUR UNDERSTANDING OF A HEDGE FUND.

5 THE WITNESS: VERY LITTLE, VERY LITTLE.
6 BY MR. LUCEY:

7 Q. JUST SO I'M CLEAR AND THE JURY IS CLEAR, ARE
8 YOU TELLING US THAT A VENTURE CAPITOL AND A HEDGE
9 FUND IS?

10 A. YES.

11 Q. WHAT'S THE DIFFERENCE?

12 A. OKAY. IF I MAY, VENTURE CAPITOL WE JUST HELP
13 PEOPLE WHO HAVE A DREAM WHO WANT TO START BUSINESS
14 LAUNCH BUSINESS. SO IT'S NONPUBLIC.

15 MY UNDERSTANDING AT THE TIME IS A HEDGE
16 FUND IS MOSTLY INVESTING AND PLAYING WITH THE
17 MARKET BY MAKING PROFIT.

18 Q. JUST SO WE ARE CLEAR ABOUT YOUR TERMS HERE,
19 WHAT DO YOU MEAN BY THE MARKET?

20 A. MARKET, STOCK MARKET.

21 Q. SO INVESTING IN PUBLIC COMPANIES?

22 A. YES, ALREADY LISTED.

23 Q. AND WHAT WAS YOUR BACKGROUND IN INVESTING IN
24 PUBLIC COMPANIES AT THAT TIME?

25 A. VERY LITTLE, VERY POORLY.

1 Q. WHEN YOU PREVIOUSLY INVESTED IN A HEDGE FUND?

2 A. AT THAT TIME IN PARALLEL I WAS REVIEWING A
3 FEW, YES.

4 Q. BUT YOU HAD NOT YET MADE ANY FINAL INVESTMENT
5 DECISIONS?

6 A. NO, AFTER PRESENTATION FROM HIM, I HAVE NOT
7 MADE DECISION.

8 Q. OKAY. SO DO YOU RECALL SOME OF THE
9 INFORMATION THAT MR. HU PROVIDED YOU REGARDING THIS
10 PARTICULAR HEDGE FUND INVESTMENT THE ASENQUA BETA
11 AS YOU DESCRIBED IT?

12 A. I RECALL HE HAD A POWER POINT PRESENTATION
13 WHICH WAS QUITE WELL MADE WITH A SHOWING ALL SORTS
14 OF HISTORY GRAPH AND HIS SUCCESSES WITH SOME CASES
15 AND DEMONSTRATING LIKE THE PAST FEW YEARS HE HAS
16 THIS HIGH PERCENTAGE GAIN. PLUS, I BELIEVE A
17 BROCHURE.

18 Q. AND WHAT DID MR. HU TELL YOU ABOUT HIS
19 BACKGROUND IN TERMS OF HIS WORK WITH HEDGE FUNDS?

20 A. YEAH, HE TOLD ME HE'S PHD AT MIT. AND I AND I
21 THINK HE'S A TECHNICAL PERSON SO IN FACT I THINK I
22 COMMENTED OH, YOU LEARN ABOUT THE MARKET HEDGE
23 FUND.

24 Q. WHAT DID HE SAY IN RESPONSE TO THE QUESTION
25 FROM YOU?

1 A. THAT'S WHAT HE WANTED TO DO.

2 Q. WHAT ABOUT -- DID MR. HU ADDRESS WHAT
3 MR. BOND'S ROLE WAS IF ANY WOULD BE IN THE ASENQUA
4 BETA FUND?

5 A. ONE MORE TIME.

6 Q. I'M SORRY. DID MR. HU ON THAT OCCASION WHEN
7 YOU MET HIM IN 2004 TO DISCUSS POTENTIALLY
8 INVESTING IN HIS ASENQUA BETA FUND, DID HE MAKE ANY
9 REFERENCE TO WHAT MR. BOND'S ROLE WOULD BE IF ANY?

10 A. OH, OKAY.

11 MR. BOND WAS INTRODUCED TO ME THROUGH
12 MR. HU. MR. STEVE BOND WAS THE PERSON TO HELP HIM
13 PICK STOCKS SORTS OF LIKE ANALYST AND HELP HIM RUN
14 THE EVERYTHING ELSE IS CONTROLLED AND MANAGED BY
15 MR. HU. ESSENTIALLY MR. BOND WORKS FOR MR. HU.

16 Q. SO WHO DID, I'M SORRY -- DID MR. HU INDICATE
17 WHO WOULD BE THE ULTIMATE DECISION MAKER WITHIN THE
18 ASENQUA BETA FUND?

19 A. THAT WOULD BE HIM.

20 Q. MR. HU?

21 A. UH-HUH.

22 Q. NOW DURING THE COURSE OF THIS MEETING DID
23 MR. HU MENTION THE NAMES OF ANY OTHER INDIVIDUALS
24 WHO HAD ALREADY INVESTED IN THE ASENQUA BETA?

25 A. I DON'T RECALL HE HAD MENTIONED ANY SPECIFIC

1 NAME BUT IT WAS A BIG THING THAT HE MENTIONED MANY
2 OTHER PROMINENT HIGH-TECH SUCCESSFUL PEOPLE WERE
3 ALREADY HIS CLIENTS, WERE ALREADY HIS INVESTORS.
4 TO ME THAT WAS ALSO IMPORTANT, YEAH.

5 Q. AND WHY IS THAT IMPORTANT TO YOU? WHY WAS
6 THAT IMPORTANT TO YOU AT THAT TIME?

7 A. WELL, I THINK, YOU KNOW, HE BE AN MIT, PHD AND
8 HE MUST KNOW WHAT HE'S DOING. AND IF THERE ARE
9 MANY OTHER SUCCESSFUL ENTREPRENEUR ALSO SELECTING
10 HIM TO TRUST HIM, GIVE HIM THE FUND, THEN I FEEL
11 MUCH MORE COMFORTABLE. THERE'S A TRUST BELIEVE UP,
12 YEAH.

13 Q. AND ESSENTIALLY SOMEWHAT OF A CORROBORATION OF
14 HIS EFFORTS ESSENTIALLY?

15 A. YES. BECAUSE TO ME FOR ANY KIND OF INVESTMENT
16 WHETHER IT'S FOR START UP OR FOR THE PUBLIC MARKET
17 I RELY ON TRUST, THAT'S VERY IMPORTANT.

18 Q. SO MR. LIN, DO YOU RECALL IF AT THIS MEETING
19 MR. HU MENTIONED THE NAME OF LONG LIEU AS ONE OF
20 HIS EXISTING INVESTORS THAT HE WAS WORKING WITH?

21 A. I DON'T REMEMBER IF HE SPECIFICALLY MENTIONED
22 BUT HONG LU THERE WAS ONE BROCHURE, THERE WAS ONE
23 BROCHURE OF ASENQUA BROCHURE. HONG LU'S PHOTO WAS
24 INCLUDED IN THE BOOKLET PROMINENTLY.

25 Q. AND YOU WERE AWARE WHEN YOU WERE REVIEWING

1 THIS BROCHURE AS TO WHO LONG LIEU WAS?

2 A. OH, YES, YES, HE'S VERY FAMOUS AND A VERY
3 SUCCESSFUL GENTLEMAN.

4 Q. AND YOU KNEW WHO HE WAS AT THAT TIME IN OR
5 ABOUT 2004, CORRECT?

6 A. YES.

7 Q. AND WHAT WAS MR. HONG LU'S PROFESSION AT THAT
8 TIME?

9 A. HE WAS A FOUNDER OF A PUBLIC COMPANY CALLED
10 UTSTARCOM. ACTUALLY, I KNEW HIM WHEN WE BOTH WERE
11 GIVING TALKS AT THE STANFORD UNIVERSITY. WE BOTH
12 WERE ON THE SAME PANEL TEACHING, TALKING TO THE
13 YOUNG STUDENTS.

14 Q. AND THE FACT THAT MR. LIN YOU SAW A BROCHURE
15 WHERE MR. HONG LU'S NAME WAS MENTIONED AND HIS
16 PICTURE LISTED DID THAT MAKE YOU MORE OR LESS
17 LIKELY TO INVEST WITH MR. HU?

18 A. MUCH MORE LIKELY.

19 Q. WHY SO?

20 A. I RESPECT HONG LU GREATLY. IT HAS BEEN WELL
21 PUBLICIZED I EVEN WROTE ARTICLE ABOUT HONG LU AND
22 TALK ABOUT HONG LU HE HIS PARTICULAR STYLE AND
23 TRUSTWORTHINESS IN MANY OF MY BOOKS.

24 Q. OVER THE YEARS?

25 A. YES.

1 Q. SO MR. LIN, DID YOU RECEIVE ANY DOCUMENTS
2 BEYOND THE POWERPOINT PRESENTATION DOCUMENTS THE
3 INVESTMENT DOCUMENTS IN CONNECTION WITH CONSIDERING
4 MAKING AN INVESTMENT IN THE ASENQUA BETA FUND?

5 A. YES, I DON'T KNOW, I DON'T REMEMBER THE EXACT
6 SEQUENCE BUT SEQUENTIALLY EVENTUALLY HE BROUGHT ME
7 SOME SUPPORTING DOCUMENTS LIKE LATER A FEW MONTHS
8 LATER, MAYBE LIKE HE'S A FINANCIAL STATEMENT,
9 AUDITED FINANCIAL STATEMENT AND THE LP AGREEMENT
10 THINGS LIKE THAT, OVER THE COURSE OF A FEW MONTH.

11 MR. LUCEY: YOUR HONOR, IF I MAY APPROACH
12 THE WITNESS.

13 THE COURT: ALL RIGHT.

14 Q. MR. LIN, I'M HANDING YOU NOW WHAT'S BEEN
15 PREVIOUSLY MARKED AS GOVERNMENT'S EXHIBIT NUMBER 1.
16 IT'S BATES STAMPED FOR COUNSEL'S BENEFIT HU37
17 THROUGH HU43?

18 A. UH-HUH.

19 Q. MR. LIN FIRST, TAKE A MOMENT TO LOOK THROUGH
20 THOSE SEQUENCE OF PAGES IT'S A MULTI PAGE DOCUMENT.

21 A. YEAH ALL TOGETHER SEVEN PAGE.

22 Q. DO YOU RECOGNIZE THAT DOCUMENT, SIR?

23 A. YES.

24 Q. WHAT IS THIS DOCUMENT?

25 A. IT WAS A DOCUMENT PROVIDED TO ME BY MR. HU AS

1 AN OUGHT AUDITED FINANCIAL STATEMENT FOR HIS
2 ASENQUA BETA FUND AT THAT TIME.

3 Q. DID HE PROVIDE THIS DOCUMENT TO YOU BEFORE OR
4 AFTER YOU MADE ANY INVESTMENT WITH MR. HU?

5 A. BEFORE, BEFORE.

6 MR. LUCEY: YOUR HONOR, I MOVE EXHIBIT 1
7 INTO EVIDENCE.

8 MR. FONG: NO OBJECTION.

9 THE COURT: OKAY. IT'S RECEIVED.

10 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 1 HAVING
11 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
12 ADMITTED INTO EVIDENCE.)

13 MR. LUCEY: YOUR HONOR, I ASK IF IT COULD
14 BE PUBLISHED ON OUR SCREEN FOR THE BENEFIT OF THE
15 JURY STARTING WITH PAGE 1, 37.

16 Q. SO MR. LIN, THIS IS THE FIRST PAGE OF THE
17 DOCUMENT, CORRECT?

18 A. YES.

19 Q. WHAT IS THE NAME OF THE FIRM AT THE TOP OF
20 THIS PAGE?

21 A. CASTILLO, LYN, COHEN & VIJAY.

22 Q. IF YOU COULD READ THE BALANCE OF THE PORTION
23 OF THE DOCUMENT BEGINNING WITH "AUDITED"?

24 A. AUDIT THE FINANCIAL STATEMENTS ASENQUA BETA
25 FUND LP. A DELAWARE LIMITED PARTNERSHIP.

1 DECEMBER 31ST, 2004.

2 Q. MR. LIN, IF YOU COULD TURN TO THE THIRD PAGE
3 OF THE DOCUMENT BATES STAMP NUMBER 39.

4 AND AGAIN, IF I COULD ASK MS. BURNEY TO
5 ENLARGE THE WRITTEN PORTION OF THIS DOCUMENT.

6 AGAIN MR. LIN, HAS THAT SAME HEADING AT
7 THE TOP OF THE DOCUMENT?

8 A. YES.

9 Q. WHAT IS THE TEXT IMMEDIATELY BELOW THE HEADING
10 OF THE FIRM?

11 A. I'M SORRY.

12 Q. WHAT'S THE FIRST LINE OF TEXT IN THIS DOCUMENT
13 IF YOU COULD READ IT OUT LOUD?

14 A. REPORT OF THE INDEPENDENT AUDITORS.

15 Q. AND AT THE VERY BOTTOM OF THE DOCUMENT BELOW
16 THE TEXT THERE APPEARS TO BE A NAME AND A SIGNATURE
17 AND A DATE?

18 A. YES. JUAN CASTILLO, CPA.

19 Q. WHAT'S THE DATE?

20 A. JANUARY 10, 2005.

21 Q. SO WE WILL LOOK AT THE TEXT OF THE DOCUMENT IN
22 A MOMENT, BUT WHAT DID YOU TAKE TO MEAN BY THE FACT
23 THAT THE DOCUMENT HAD A SIGNATURE NAME AND DATE AT
24 THE BOTTOM AT THE TIME?

25 MR. FONG: OBJECTION. AMBIGUOUS.

1 MR. LUCEY: I CAN CLARIFY THE QUESTION,
2 YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 BY MR. LUCEY:

5 Q. MR. LIN, WHAT WAS YOUR UNDERSTANDING WAS THE
6 NATURE OF THE SIGNATURE THAT APPEARED IN THE DATE.
7 WHAT DID YOU UNDERSTAND THAT MEAN WHEN YOU READ
8 THIS DOCUMENT BACK IN OR AROUND 2004?

9 A. YEAH. THIS DOCUMENT TO ME MEANT THAT ASENQUA
10 BETA FUND HAS BEEN, THE FINANCIAL STATEMENT HAS
11 BEEN EITHER PREPARED OR REVIEWED AND CERTIFIED BY
12 THIS PARTICULAR CPA. SO IT'S LEGITIMATE.

13 Q. AND MR. LIN, IS IT -- WAS IT IMPORTANT AT THE
14 TIME YOU READ THIS DOCUMENT THAT THE INDIVIDUAL'S
15 NAME WAS FOLLOWED BY CFA?

16 A. OH, YES.

17 Q. WHY IS THAT?

18 A. IT'S A CERTIFIED PUBLIC ACCOUNTANT IT MEANS.

19 Q. LET ME STOP YOU THERE, WHAT DID THAT MEAN TO
20 YOU AT THAT TIME?

21 A. IT MEANS THIS IS A PERSON THAT HAS BEEN
22 CERTIFIED BY THE GOVERNMENT AND HE'S ACCOUNTABLE
23 AND RESPONSIBLE AND VERIFY EVERYTHING IN THE
24 FINANCIAL STATEMENT IS TRUE.

25 Q. ASK AGAIN I ASK, WHY IS THAT IMPORTANT TO YOU

1 IN REVIEWING THIS DOCUMENT?

2 A. YES. ONCE AGAIN, IT IS -- IT CERTIFIES THAT
3 THE FINANCIAL STATEMENT IS TRUE AND IT'S NOT JUST
4 SOMEONE WHO MADE IT UP.

5 Q. NOW I ASK MS. BURNEY IF SHE COULD ENLARGE THE
6 FIRST FULL PARAGRAPH OF THIS DOCUMENT.

7 MR. LIN, I WILL READ THE TEXT OUT LOUD
8 FOR THE RECORD THEN ASK YOU A QUESTION.

9 WE HAVE AUDITED THE FINANCIAL STATEMENTS
10 OF ASENQUA BETA FUND, THE FUND FOR THE YEAR ENDED
11 DECEMBER 31ST, 2004, WHICH COMPRISE THE BALANCE
12 SHEET, STATEMENT OF CAPITAL ACCOUNTS, AND THE
13 RELATED NOTES 1 TO 4. IT IS OUR RESPONSIBILITY TO
14 FORM AN INDEPENDENT OPINION BASED ON OUR AUDIT ON
15 THOSE FINANCIAL STATEMENTS AND TO REPORT OUR
16 OPINION SOLELY TO YOU, AS A BODY, AND FOR NO OTHER
17 PURPOSE. WE DO NOT ASSUME RESPONSIBILITY TOWARDS
18 OR ACCEPT LIABILITY TO ANY OTHER PERSON FOR THE
19 CONTENTS OF THIS REPORT.

20 NOW MR. LIN, MY QUESTION IS: WHAT'S THE
21 IMPORTANCE OF THIS FIRST PARAGRAPH OF THE -- OF
22 THIS REPORT OF THE INDEPENDENT AUDITORS SIGNED BY
23 MR. CASTILLO?

24 A. YES, TO ME THE MOST IMPORTANT ONE ACTUALLY IS
25 THE FIRST TWO SENTENCE. WE HAVE AUDITED THE

1 FINANCIAL STATEMENT.

2 Q. WHY IS THAT IMPORTANT?

3 A. THAT MEANS THERE'S AN INDEPENDENT CPA FIRM
4 HAVE ACTUALLY PHYSICALLY REVIEWED THE FINANCIAL
5 STATEMENT FOR THE UNDERSTANDING OF THIS DOCUMENT.

6 Q. WHEN YOU SAY -- LET ME STOP YOU THERE, WHAT DO
7 YOU MEAN BY "PHYSICALLY REVIEW" WHAT DOES THAT
8 MEAN?

9 A. MEANING THIS CPA FIRM HAS BEEN CONTRACTED BY
10 THIS COMPANY.

11 Q. ASENQUA BETA FUND?

12 A. TO GO IN AND REVIEW THEIR FINANCIAL STATEMENT.
13 IN ORDER FOR THEM TO PRODUCE SUCH AN AUDITED
14 FINANCIAL REPORT.

15 Q. SO WHAT KIND OF THINGS ARE YOU TALKING ABOUT
16 THAT THEY WOULD HAVE HAD TO REVIEW TO WRITE THAT
17 PARAGRAPH AND WRITE THAT SENTENCE WHAT DOES THAT
18 MEAN?

19 A. YES, IT MEANS THE CPA NEEDS TO ACCESS THEIR
20 FINANCIAL RECORD TO REVIEW AND LOOK AT THE REVENUE
21 LOOK AT INCOME, LOOK AT TURN OVER LOOK AT THE
22 EXPENSE AND ALL THOSE THINGS AND FOR IT TO BE A
23 REAL AUDITED REPORT.

24 Q. MAYBE SOMETIME IT IS YOU HEAR THE PHRASE THEY
25 LOOKED AT THE BOOKS; IS THAT RIGHT?

1 A. YES.

2 Q. LOOKED AT ALL THE MONEY COMING IN THE MONEY
3 GOING OUT ALL THE BANK RECORDS?

4 A. YES.

5 Q. ALL THE ASSETS OF THE FIRM?

6 A. RIGHT.

7 Q. THE LIABILITIES OF THE FUND, CORRECT?

8 A. UH-HUH.

9 Q. MS. BURNEY, I NOW ASK IF YOU COULD BLOW UP THE
10 SECOND PARAGRAPH OF THIS PAGE 39.

11 AGAIN, I WILL READ A PORTION OF THIS TO
12 THE JURY AND THE COURT. THE SECOND SENTENCE OF
13 THIS PARAGRAPH BEGINS, AN AUDIT INCLUDES EXAMINING
14 ON A TEST BASIS EVIDENCE SUPPORTING THE AMOUNTS AND
15 DISCLOSURES IN THE FINANCIAL STATEMENTS. AN AUDIT
16 ALSO INCLUDES ASSESSING THE ACCOUNTING PRINCIPLES
17 USED AS SIGNIFICANT ESTIMATES MADE BY MANAGEMENT AS
18 WELL AS IN EVALUATING THE OVER ALL FINANCIAL
19 STATEMENT'S PRESENTATION.

20 WE BELIEVE THAT OUR AUDIT PROVIDES A
21 REASONABLE BASIS FOR OUR OPINION.

22 SO MR. LIN, WHAT DID YOU TAKE THAT, THOSE
23 LINES I JUST READ INTO THE RECORD, TO MEAN AT THE
24 TIME YOU READ THEM BACK YEARS AGO PRIOR TO
25 INVESTING?

1 A. THE TIME WHEN I READ IT, THIS PARAGRAPH TOLD
2 ME THAT THIS FIRM, LIKE I SAID EARLIER, HAVE
3 ACTUALLY CONDUCTED THE TRUE AUDITING AND FOLLOWING
4 THE STANDARD REQUIREMENT. LIKE YOU SAY, EXAM THE
5 BOOKS TO THEIR SATISFACTION, PLUS THEIR ASSESSMENT.

6 Q. AND MR. LIN, I WANT TO READ ONE MORE SENTENCE
7 INTO THE RECORD AND ASK YOU AGAIN TO HAVE A
8 QUESTION FOR YOU.

9 THE SENTENCE BEGINS, THOSE STANDARDS
10 REQUIRE THAT WE PLAN AND PERFORM THE AUDIT TO
11 OBTAIN REASONABLE ASSURANCE ABOUT WHETHER THE
12 FINANCIAL STATEMENTS ARE FREE OF MATERIAL
13 MISSTATEMENT.

14 MR. LIN, WHAT DID YOU UNDERSTAND THAT
15 STATEMENT TO MEAN BACK WHEN YOU READ THIS REPORT
16 YEARS AGO?

17 A. THAT MEANS THE CPA WHEN THEY CONDUCTED THE
18 AUDITING, THEY HAVE REVIEWED ALL THE IMPORTANT
19 DOCUMENTS WHICH IS A COMPANY RECORD, INCOME RECORD,
20 FINANCIAL RECORD, EXPENSE RECORD. THAT'S -- AND TO
21 MAKE SURE THERE WERE NO FALSE STATEMENT OR
22 DISCREPANCY OR INCONSISTENCY AND THEY HAVE DONE
23 THAT.

24 Q. AND MR. LIN, PRIOR TO INVESTING WITH MR. HU
25 WAS IT IMPORTANT FOR YOU TO KNOW THAT THE FINANCIAL

1 STATEMENTS WOULD BE FREE OF MATERIAL MISSTATEMENT?

2 A. YES.

3 Q. WHY SO?

4 A. BECAUSE IF -- WITHOUT AUDITING THE REPORT,
5 WITHOUT ACTUAL REVIEW AND EXAM, PEOPLE CAN BLOW UP
6 THE AMOUNT OF EXPENSES OR BLOW UP THE REVENUE
7 MEANING FALSIFY IT.

8 Q. AND NOW I ASK MS. BURNEY IF SHE COULD ENLARGE
9 THE LAST PARAGRAPH OF THIS DOCUMENT.

10 NOW AGAIN I WILL READ THE SENTENCE INTO
11 THE RECORD AND ASK YOU A QUESTION MR. LIN
12 BEGINNING, IN OUR OPINION, THE FINANCIAL STATEMENTS
13 REFERRED TO ABOVE WERE SENT FAIRLY IN ALL MATERIAL
14 RESPECTS THE FINANCIAL POSITION OF THE FUND AS OF
15 DECEMBER 31ST, 2004, AND THE RESULTS OF ITS
16 OPERATIONS ITS CASH FLOWS AND IT IS CHANGES IN ITS
17 EQUITY FOR THE YEAR THEN ENDED UNTIL ACCORDANCE
18 WITH THE INTERNATIONAL FINANCIAL REPORTING
19 STANDARDS.

20 SO MR. LIN, WHAT DID YOU UNDERSTAND THAT
21 LAST SENTENCE TO MEAN IMMEDIATELY ABOVE MR.
22 CASTILLO'S SIGNATURE?

23 A. YES, MY UNDERSTANDING IS AFTER HE REVIEWED AN
24 EXAM EVENTUALLY HE CAME TO THIS CONCLUSION
25 THEREFORE OFFERED HIS OPINION OF THE FINANCIAL

1 STATEMENTS TO HIS SATISFACTION, THEREFORE HE CAN
2 SIGN.

3 Q. YOU UNDERSTOOD HIM TO BE GIVING HIS
4 PROFESSIONAL OPINION?

5 A. YES.

6 Q. NOW I ASK MR. LIN, IF YOU COULD TURN YOUR
7 ATTENTION NOW TO THE NEXT PAGE, PAGE 40.

8 AND MS. BURNEY, IF YOU COULD PUBLISH THAT
9 TO THE JURY, AND SLIGHTLY ENLARGE THE NUMBER
10 PORTION OF THE DOCUMENT.

11 MR. LIN, WHAT ARE YOU LOOKING AT HERE AS
12 YOU UNDERSTOOD IT WHEN YOU RECEIVED THIS DOCUMENT
13 BACK YEARS AGO.

14 A. I AM NOT A CPA. I'M NOT A FINANCIAL EXPERT
15 BUT WHEN I READ THIS I WAS VERY IMPRESSED BY THIS
16 VERY PROFESSIONALLY PREPARED DOCUMENT.

17 Q. AND WHAT ABOUT IT SO IMPRESSED YOU?

18 A. WELL, I LOOK AT TWO LINES ESPECIALLY.

19 Q. WHICH TWO LINES ARE YOU THINKING?

20 A. THE ONE THAT SAYS NET ASSET VALUE.

21 Q. LET ME STOP YOU THERE MR. LIN.

22 MS. BURNEY, IF YOU COULD ENLARGE THAT FOR
23 THE JURY.

24 THIS IS THE LINE YOU ARE REFERRING TO
25 MR. LIN?

1 A. YES.

2 Q. WHY IS THAT IMPORTANT TO YOU WHEN YOU READ IT
3 BACK?

4 A. THIS PERSON WHO I LIKED AT THAT TIME, AT THAT
5 TIME I LIKED HIM VERY MUCH.

6 Q. MR. WHO?

7 A. MR. HU. AND HE HAD ALREADY MORE THAN A
8 HUNDRED 40 MILLION HELPING HIS CLIENTS, BUT THIS
9 YOU NEED TO READ THIS ALONG WITH THE SECOND LINE
10 FOLLOWING IT WHICH IS EVEN MORE IMPRESSIVE IS THE
11 YEAR TO YEAR GAIN.

12 Q. YOU ARE REFERRING TO THIS LINE NAV,
13 YEAR-OVER-YEAR PERCENT?

14 A. YES.

15 Q. WHY WAS THAT SIGNIFICANT TO YOU?

16 A. THIS IS A VERY, VERY SIGNIFICANTLY GOOD
17 PERFORMANCE, HE'S HELPING HIS CLIENTS, CERTAINLY
18 BETTER THAN MY OWN PERFORMANCE.

19 Q. SO MR. LIN, HAVING READ AND REVIEWED THIS
20 ENTIRE REPORT, AFTER BEING PROVIDED IT TO YOU BY
21 MR. HU, THESE PAGES AND THE ENTIRETY OF THIS
22 DOCUMENT YOU READ IT BACK YEARS AGO.

23 A. UH-HUH.

24 Q. WERE YOU MORE OR LESS LIKELY TO INVEST WITH
25 MR. HU IN HIS ASENQUA BETA FUND?

1 A. I'M MORE LIKELY BECAUSE IT'S A WONDERFUL
2 PERFORMANCE, IT'S A WONDERFUL PERFORMANCE.

3 Q. AND WHY IS IT SO IMPORTANT FOR YOU TO SEE THAT
4 THE NET ASSET VALUE, HAD IT GONE UP OR DOWN YEAR
5 OVER YEAR BETWEEN 2003 AND 2004?

6 A. IT MEANS THAT HE'S IMPROVING HIS PERFORMANCE
7 AND HIS CLIENTS ARE GAINING THROUGH HIS INVESTMENT.

8 Q. AND THE OVER ALL VALUE OF THE FUND IS
9 INCREASING, CORRECT?

10 A. YES, YES.

11 Q. BASED ON THIS DOCUMENT?

12 A. YES.

13 Q. AND MR. LIN DID YOU UNDERSTAND THE ACCOUNTANTS
14 AND THE ACCOUNTING FIRM WHO PREPARED THESE
15 DOCUMENTS TO BE CERTIFIED PUBLIC ACCOUNTANTS IN THE
16 STATE OF CALIFORNIA WHEN YOU REVIEWED IT BACK YEARS
17 AGO?

18 A. I WAS TOLD, YEAH.

19 Q. WHO WERE YOU TOLD BY?

20 A. BY MR. HU.

21 Q. AT THAT TIME?

22 A. UH-HUH.

23 Q. IF YOU HAD KNOWN HIS FIRM AT THAT TIME DID NOT
24 ACTUALLY EXIST, WOULD YOU HAVE REVIEWED THIS
25 DOCUMENT DIFFERENTLY?

1 A. DEFINITELY.

2 Q. WHY?

3 A. I WOULD THINK THEN IF THIS WAS MADE UP IF I
4 KNEW THIS WHOLE THING WAS MADE UP I WOULD THINK THE
5 WHOLE SCENARIO WAS FALSE.

6 THE COURT: IT'S A GOOD TIME FOR A BREAK.

7 MR. LUCEY: CERTAINLY, YOUR HONOR.

8 THE COURT: ALL RIGHT. WE WILL TAKE A
9 15-MINUTE RECESS.

10 (WHEREUPON, THE FOLLOWING PROCEEDINGS
11 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

12 COULD I TALK TO COUNSEL FOR JUST A
13 SECOND.

14 (OFF-THE-RECORD DISCUSSION.)

15 (WHEREUPON, THE FOLLOWING PROCEEDINGS
16 WERE HELD IN THE PRESENCE OF THE JURY:)

17 THE CLERK: DO WE HAVE THE WITNESS?

18 MR. LUCEY: OH.

19 THE COURT: YOU MAY CONTINUE.

20 BY MR. LUCEY:

21 Q. BACK ON THE RECORD.

22 SO MR. LIN, I HAVE A FEW MORE QUESTIONS
23 TO ASK YOU REGARDING EXHIBIT 1.

24 SO I ASK NOW THAT MS. BURNEY, TURN AND
25 PUBLISH FOR THE JURY'S BENEFIT AND THE COURT PAGE

1 THREE, BATES NUMBER 41.

2 SO MR. LIN, IT'S THE PAGE IMMEDIATELY
3 FOLLOWING THE NUMBER SECTION WE WERE JUST LOOKING
4 AT. DO YOU SEE THAT DOCUMENT, MR. LIN?

5 A. YES.

6 Q. I WOULD ASK MS. BURNEY BLOW UP THE FIRST FULL
7 PARAGRAPH, PARAGRAPH ONE WITH THE HEADING OF
8 GENERAL.

9 AND I'M GOING TO READ THE SECOND
10 PARAGRAPH OF THIS SECTION 1 HEADING INTO THE RECORD
11 FOR THE BENEFIT OF YOU, MR. LIN AND THE JURY AND
12 COURT THEN I HAVE A QUESTION TO ASK YOU ABOUT IT.

13 THE PARAGRAPH READS: THE INVESTMENT
14 OBJECTIVE OF THE FUND IS TO SEEK LONG-TERM CAPITAL
15 APPRECIATION, IN ALL MARKET ENVIRONMENTS, WITHOUT
16 EXPOSING INVESTORS TO SIGNIFICANT LEVELS OF
17 SYSTEMIC MARKET RISK. THE MANAGER OF THE FUND,
18 ASENQUA INC., WILL SEEK TO ACHIEVE THE INVESTMENT
19 OBJECTIVE OF THE COMPANY PRINCIPALLY BY TAKING BOTH
20 LONG AND SHORT POSITIONS PRIMARILY IN A TECHNOLOGY,
21 MEDIA, TELECOMMUNICATION CORPORATIONS TRADED ON THE
22 NEW YORK STOCK EXCHANGE, NASDAQ, AND AMERICAN STOCK
23 EXCHANGE. THROUGH THIS PROPRIETARY INVESTMENT
24 MODELS THE MANAGER WILL EVALUATE THESE COMPANIES
25 AND TAKE LONG POSITIONS IN UNDER VALUED COMPANIES

1 WITH IMPROVING FUNDAMENTALS AND TAKE SHORT
2 POSITIONS IN OVER VALUED COMPANIES WITH
3 DETERIORATING FUNDAMENTALS.

4 MR. LIN, WHAT DO YOU UNDERSTAND THAT
5 PARAGRAPH I JUST READ BACK AT THE TIME YOU READ IT
6 PRIOR TO INVESTING WITH MR. HU?

7 A. YES, IT BASICALLY DESCRIBED ASENQUA BETA FUNDS
8 OBJECTIVE TO ACHIEVE GOOD RETURN NO MATTER HOW THE
9 STOCK MARKET WENT UP OR DOWN.

10 Q. WAS IT TALKING ABOUT INVESTING IN PRIVATE
11 COMPANIES LIKE VENTURE CAPITAL?

12 A. NO.

13 Q. WHAT DID YOU UNDERSTAND THE FUND TO BE
14 INVESTING IN BASED ON THIS PARAGRAPH AND THE
15 INFORMATION MR. HU PROVIDED YOU?

16 A. YEAH, TO BE NEW YORK STOCK EXCHANGE, NASDAQ
17 AND AMERICAN STOCK EXCHANGE. THESE ARE THE LISTED
18 PUBLIC COMPANIES.

19 Q. PUBLIC COMPANIES?

20 A. YEAH, THIS IS NOT FOR THE VENTURE FUND.

21 Q. OKAY. AND THEN NOW I WOULD ASK MS. BURNEY IF
22 YOU COULD BLOW UP FOR THE BENEFIT OF ALL IN THE
23 COURTROOM, PARAGRAPH TWO, SIGNIFICANT ACCOUNTING
24 POLICIES. THE FIRST PARAGRAPH WHICH HAS THE
25 HEADING BASIS OF PREPARATION.

1 AND NOW AGAIN I WILL READ THIS OUT LOUD
2 AND THEN I HAVE A QUESTION TO FOLLOW UP FOR YOU
3 MR. LIN.

4 SIGNIFICANT ACCOUNTING POLICIES: BASIS
5 OF PREPARATION.

6 THE FINANCIAL STATEMENTS HAVE BEEN
7 PREPARED IN ACCORDANCE WITH INTERNATIONAL FINANCIAL
8 REPORTING STANDARDS, IFRS, WHICH COMPLIES STANDARDS
9 AND INTERPRETATIONS APPROVED BY THE INTERNATIONAL
10 ACCOUNTING STANDARDS BOARD, IASB, AND INTERNATIONAL
11 ACCOUNTING STANDARDS, IAS, AND STANDING
12 INTERPRETATIONS COMMITTEE INTERPRETATIONS APPROVED
13 BY THE INTERNATIONAL ACCOUNTING STANDARDS COMMITTEE
14 IASC THAT REMAIN IN EFFECT.

15 NOW MR. LIN, YOU ALREADY TOLD US EARLIER
16 YOU ARE NOT A CPA, CORRECT?

17 A. CORRECT.

18 Q. YOU ARE NOT AN ACCOUNTANT?

19 A. CORRECT.

20 Q. BUT DID YOU HAVE ANY UNDERSTANDING OF WHAT THE
21 PARAGRAPH MEANT WHEN YOU READ IT YEARS AGO?

22 A. YES. I DO NOT KNOW WHAT THESE ORGANIZATIONS
23 ARE OR WERE BUT I UNDERSTAND THESE ARE THE
24 GOVERNING BODY WHICH WERE -- OVERSEES THE OPERATION
25 OF THE CPA FIRM AND THEIR PRACTICE OR THE FINANCIAL

1 INDUSTRY.

2 Q. AND WAS IT IMPORTANT TO YOU WHEN YOU WERE
3 REVIEWING THIS REPORT FROM CASTILLO, LYN, COHEN &
4 VIJAY THAT YOU RECEIVED FROM MR. HU THAT THE REPORT
5 WAS BEING PREPARED IN ACCORDANCE WITH THESE
6 STANDARDS?

7 A. YES, VERY IMPORTANT.

8 Q. WHY SO?

9 A. WITHOUT FOLLOWING THE GUIDELINE OF THE
10 GOVERNANCE THEN ANYBODY CAN FORMULATE THEIR OWN
11 BOOKS HOWEVER WAY THEY WISH SO THEY MUST FOLLOW
12 CERTAIN GUIDELINES. AND TO ME THAT'S IMPORTANT,
13 MEANS IT'S LEGIT.

14 Q. WHEN YOU SAY LEGIT WHAT DO YOU MEAN?

15 A. IT MEANS IT'S A LEGITIMATE DOCUMENT,
16 LEGITIMATE PRACTICE AND PREPARATION FOLLOWING THE
17 GUIDELINE WITHIN THE BOUNDARY OF THE GUIDELINE.

18 Q. DOES THAT MEAN IT WOULD CAUSE YOU TO RELY ON
19 THE INFORMATION CONTAINED IN THE REPORT?

20 A. YES.

21 Q. I WILL ASK MS. BURNEY IF I COULD HAVE YOU BLOW
22 UP THE VERY BOTTOM PORTION OF THIS DOCUMENT WITH A
23 FOOTER OF THE DOCUMENT BELOW THE NUMBERS.

24 MR. LIN, I'M GOING TO READ THIS ADDRESS
25 OUT TO YOU THAT'S LISTED HERE AT THE BOTTOM OF THE

1 PAGE. ONE EMBARCADERO CENTER SUITE 500
2 SAN FRANCISCO, CALIFORNIA, 94111. PHONE NUMBER IS
3 (415) 623-2055. FAX IS (415) 623-2056.

4 MR. LIN, WHAT WAS YOUR UNDERSTANDING OF
5 WHAT THAT REFERENCE WAS AT THE BOTTOM OF THIS PAGE
6 OF THE DOCUMENT AT THE TIME YOU READ IT YEARS AGO?

7 A. I TOOK IT AS THE LOCATION OF THE OFFICE OF
8 THIS ACCOUNTING FIRM, CASTILLO, LYN, COHEN & VIJAY.

9 Q. SO YOU UNDERSTOOD THIS ACCOUNTING FIRM THAT
10 PREPARED THIS REPORT HAD THEIR OFFICE AT ONE
11 EMBARCADERO CENTER IN SAN FRANCISCO, CALIFORNIA?

12 A. YES.

13 Q. I WILL SHOW YOU ANOTHER EXHIBIT NOW MR. LIN,
14 MR. LUCEY: YOUR HONOR, MAY I APPROACH
15 THE WITNESS?

16 THE COURT: YES.

17 MR. LUCEY: THANK YOU.

18 Q. MR. LIN, SHOWING YOU WHAT'S BEEN PREVIOUSLY
19 MARKED AS GOVERNMENT'S EXHIBIT NUMBER 2.

20 TAKE A MOMENT IT'S A MULTI-PAGE DOCUMENT
21 LONGER THAN THE LAST ONE WE JUST LOOKED AT.
22 UPWARDS OF 30 PAGES SO TAKE A MOMENT TO REVIEW THE
23 PAGES, SIR.

24 SO MR. LIN, DID YOU SIGN ANY
25 AGREEMENTS -- BACK UP, SORRY. ULTIMATELY, MR. LIN,

1 YOU MOVED FORWARD WITH YOUR INVESTMENT PROCESS WITH
2 MR. HU, CORRECT?

3 A. YES.

4 Q. AND WHAT IS THIS DOCUMENT WE ARE LOOKING AT
5 NOW, EXHIBIT NUMBER 2?

6 A. THIS IS A SUBSCRIPTION AGREEMENT FOR ASENQUA
7 BETA FUND.

8 Q. OR SUBSCRIPTION BOOKLET?

9 A. YES, SUBSCRIPTION BOOKLET.

10 Q. AND DO YOU RECOGNIZE THIS DOCUMENT, SIR?

11 A. YES.

12 Q. AND HOW DID YOU COME TO HAVE IT?

13 A. IT WAS PROVIDED TO ME BY MR. HU.

14 MR. LUCEY: AND YOUR HONOR, AT THIS POINT
15 I MOVE TO HAVE EXHIBIT 2 MOVED INTO EVIDENCE.

16 MR. FONG: NO OBJECTION, YOUR HONOR.

17 THE COURT: TWO IS ADMITTED.

18 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 2 HAVING
19 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
20 ADMITTED INTO EVIDENCE.)

21 BY MR. LUCEY:

22 Q. I WOULD ASK MS. BURNEY TO PUBLISH ONE
23 PARTICULAR PAGE TO LOOK AT FIRST. IT'S BATES
24 NUMBER 62. PAGE 18.

25 IF SHE COULD BLOW UP THE BOTTOM PORTION

1 OF THE DOCUMENT WHERE IT SAYS AGREED AND SIGNED.
2 ACCEPTED AND AGREED AS OF JANUARY 25TH OF 2005.
3 THE ASENQUA BETA FUND LP.

4 MR. LIN, WHO DO YOU RECOGNIZE THAT
5 SIGNATURE TO BE DIRECTLY UNDERNEATH ASENQUA BETA
6 FUND?

7 A. IT'S ALBERT HU.

8 Q. AND HOW ARE YOU ABLE TO MAKE THAT STATEMENT?

9 A. IT WAS PROVIDED TO HIM AND HE SIGNED IT.

10 Q. DID HE SIGN IN YOUR PRESENCE?

11 A. I BELIEVE SO.

12 Q. OKAY. AND THE DATE ON THIS DOCUMENT ACCEPTED
13 AND AGREED AS OF JANUARY 25, 2005, DOES THAT HAVE
14 ANY HELP, DOES THAT HELP YOU FIX WHEN APPROXIMATELY
15 YOU RECEIVED THIS DOCUMENT FROM MR. HU?

16 A. IT SHOULD BE AROUND THAT TIME. I CANNOT
17 RECALL THE EXACT DATE.

18 Q. OKAY. NOW I ASK MS. BURNEY IF SHE COULD MOVE
19 UP TO THE SAME PAGE OF THE DOCUMENT AND ENLARGE THE
20 PORTION READING THE UNDERSIGNED COMMITMENT IS.

21 AND YOU SEE THAT PHRASE THERE MR. LIN ON
22 THE SCREEN ON THE DOCUMENT PAGE 64? THE
23 UNDERSIGNED COMMITMENT IS \$200,000?

24 A. YES.

25 Q. DOES THAT RELATE TO YOUR INITIAL INVESTMENT

1 WITH MR. HU?

2 A. YES THAT WAS MY INITIAL INVESTMENT IN TWO
3 WIRING.

4 Q. OKAY. SO WE WILL GET TO THE DETAILS IN A
5 MOMENT BUT I UNDERSTAND YOU DIDN'T SEND THE MONEY
6 IN ONE LUMP SUM?

7 A. NOT THIS ONE.

8 Q. IN CAME IN TWO PORTIONS?

9 A. YES.

10 Q. SO MR. LIN, JUST SO WE ARE CLEAR FOR THE
11 RECORD NOW, YOU HAD THE INITIAL MEETING WITH MR. HU
12 IN REGARD TO INVESTING NOW AND HE SHOWED YOU A
13 POWER POINT. AND HE ALSO PROVIDED YOU WITH A
14 CASTILLO REPORT?

15 A. YES.

16 Q. HE ALSO PROVIDED YOU THE SUBSCRIPTION BOOKLET
17 OF ASENQUA BETA FUND. AND HE DISCUSSED WITH YOU
18 HIS PRIOR RECORD IN TERMS OF HIS INVESTING RECORD?

19 A. YES.

20 Q. WHAT HE WAS PLANNING ON INVESTING IN A HEDGE
21 FUND?

22 A. CORRECT.

23 Q. AND IT WAS ON THE BASIS OF THE REPRESENTATIONS
24 AND THE DOCUMENTS THAT YOU MADE THE DECISION TO
25 INVEST \$200,000 WITH MR. HU?

1 A. YES.

2 Q. OKAY. NOW \$200,000 DID YOU AND MR. HU TALK
3 ABOUT THAT BEING THE ULTIMATE NUMBER MR. HU WAS
4 LOOKING TO HAVE YOU INVEST WITH HIM?

5 A. NOT REALLY. MR. HU INFORMED ME MOST OF THE
6 CLIENTS ARE VERY HIGH NET WORTH. THEY ALL INVESTED
7 A LOT MORE MONEY THAN SEVEN FIGURE. SO 200,000
8 INITIAL AMOUNT IS SMALL.

9 Q. SO DID YOU HAVE -- DID MR. HU HAVE DISCUSSIONS
10 WITH YOU ABOUT INCREASING THAT AMOUNT OR WAS HE
11 GOING TO MAKE AN EXCEPTION FOR YOU?

12 A. YEAH. IN FACT, ONE OF THE MEETING HE TOLD ME
13 ASENQUA BETA FUND WAS CLOSE BECAUSE AT THE TIME I
14 HAD PUBLISHED SOME BOOKS ABOUT TEACHING PEOPLE HOW
15 TO BE HAPPY TEACHING PEOPLE HOW TO SUCCEED. AND AS
16 YOU SAY, IT'S BECAUSE OF YOUR SPECIAL, SO HE WAS TO
17 OPEN IT FOR ME TO PARTICIPATE. SO THAT WAS AN
18 HONOR FOR ME.

19 Q. HOW DID YOU ULTIMATELY TRANSMIT THE FUNDS THAT
20 YOU COMMITTED TO INVEST IN THIS ASENQUA BETA FUND
21 THE \$200,000 COMMITMENT WE JUST DISCUSSED?

22 A. I BELIEVE I INSTRUCT MY BANK AND BASED ON THE
23 DESTINATION ACCOUNT DETAIL PROVIDED BY MR. HU AND
24 MY BANK DID THAT ACCORDINGLY.

25 Q. OKAY. AND THAT WAS DONE IN TWO ALLOTMENTS?

1 A. I BELIEVE SHORTLY AFTER THE AGREEMENT TWO
2 ALLOTMENTS, YEAH, 100,000 EACH TIME.

3 Q. AND THE FIRST ONE WAS DONE IN OR AROUND
4 FEBRUARY 8TH, 2005?

5 A. I BELIEVE SO, YES.

6 Q. AND THAT WAS FOR \$100,000?

7 A. \$100,000 FIRST.

8 Q. HOW DID YOU KNOW WHAT BANK ACCOUNT TO WIRE IT
9 TO?

10 A. THE BANK ACCOUNT DETAILS WAS PROVIDED BY
11 MR. HU.

12 Q. AND THAT WAS THE SAME FOR THE SECOND WIRE?

13 A. I BELIEVE SO.

14 Q. AND THAT ONE OCCURRED ON OR AROUND FEBRUARY --

15 A. SHORTLY AFTER THE FIRST ALLOTMENT.

16 Q. A COUPLE WEEKS AFTER THAT?

17 A. I THINK SO.

18 Q. IN OUR AROUND FEBRUARY 23RD, 2005?

19 A. IT SOUNDS RIGHT.

20 Q. AND AGAIN YOU DIRECTED IT TO THE BANK ACCOUNT
21 THAT -- HOW DID YOU KNOW TO DIRECT IT TO THE
22 ACCOUNT FOR THE SECOND ONE?

23 A. YES. I BELIEVE IT WAS THE SAME ACCOUNT WITH
24 THE WIRING INSTRUCTION PROVIDED BY MR. HU.

25 Q. SO MR. LIN, I'M GOING TO SHOW YOU A SERIES OF

1 DOCUMENTS.

2 MR. LUCEY: YOUR HONOR, IF I MAY APPROACH
3 MR. LIN.

4 THE COURT: SURE.

5 Q. MR. LIN, I'M NOW SHOWING YOU A SERIES OF
6 DOCUMENTS MARKED AS GOVERNMENT'S EXHIBIT 26, 27, 3
7 AND 4. SO ACTUALLY TAKE A MOMENT TO LOOK AT ALL
8 THE PAGES OF THOSE FOUR EXHIBITS.

9 SO MR. LIN, DO YOU RECOGNIZE THESE FOUR
10 EXHIBITS, THE DOCUMENTS THAT ARE MARKED WITH THESE
11 FOUR EXHIBIT NUMBERS, 26, 27, 3 AND 4?

12 A. YES.

13 Q. AND WHAT IS FIRST, WHAT IS EXHIBIT 26?

14 A. EXHIBIT 26 IS A RECEIPT ISSUED BY MR. ALBERT
15 HU TO ME TO CONFIRM THAT HE HAS RECEIVED FROM ME
16 THE \$100,000.

17 MR. LUCEY: AND YOUR HONOR, I MOVE THAT
18 GOVERNMENT EXHIBIT 26 BE ADMITTED INTO EVIDENCE.

19 MR. FONG: NO OBJECTION, YOUR HONOR.

20 THE COURT: ALL RIGHT. IT'S ADMITTED.
21 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 26 HAVING
22 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
23 ADMITTED INTO EVIDENCE.)

24 BY MR. LUCEY:

25 Q. MR. LIN I WANT TO TURN YOUR ATTENTION TO

1 EXHIBIT 27. WHAT IS THIS DOCUMENT WE ARE NOW
2 LOOKING AT.

3 A. THIS IS THE ASENQUA BETA FUND STATEMENT
4 QUARTERLY STATEMENT AND SUMMARY OF ACCOUNT
5 INFORMING ME --

6 Q. HOLD ON, IT HASN'T COME INTO EVIDENCE YET SO I
7 HAVE TO STOP YOU THERE.

8 HOW DID YOU COME TO HAVE THIS DOCUMENT?

9 A. IT WAS PROVIDED TO ME BY MR. ALBERT HU.

10 MR. LUCEY: AGAIN YOUR HONOR, THE
11 GOVERNMENT MOVES TO HAVE 26 INTO EVIDENCE.

12 THE COURT: ISN'T THIS 27?

13 MR. LUCEY: 27, I'M SORRY.

14 MR. FONG: NO OBJECTION.

15 THE COURT: 27 IS ADMITTED.

16 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 27 HAVING
17 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
18 ADMITTED INTO EVIDENCE.)

19 BY MR. LUCEY:

20 Q. MR. LIN, IF YOU COULD TURN YOUR ATTENTION TO
21 EXHIBIT 3. THIS IS A TWO PAGE DOCUMENT; DO YOU
22 RECOGNIZE THIS DOCUMENT, SIR?

23 A. YES.

24 Q. WHAT IS THIS DOCUMENT?

25 A. THIS IS ANOTHER QUARTERLY STATEMENT FROM

1 ASENQUA BETA FUND FOR MY DEPOSIT AND FOR THE
2 PERFORMANCE OF THE FUND FOR ME.

3 MR. LUCEY: YOUR HONOR, AGAIN, THE
4 GOVERNMENT WOULD MOVE EXHIBIT 3 INTO EVIDENCE.

5 MR. FONG: NO OBJECTION.

6 THE COURT: ALL RIGHT. IT'S RECEIVED.
7 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 3 HAVING
8 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
9 ADMITTED INTO EVIDENCE.)

10 BY MR. LUCEY:

11 Q. NOW MR. LIN, IF YOU COULD TURN YOUR ATTENTION
12 TO GOVERNMENT EXHIBIT 4; WHAT IS THIS DOCUMENT SIR?

13 A. THIS IS AGAIN A SIMILAR THING, THE ASENQUA
14 BETA FUND QUARTERLY STATEMENT SUMMARY OF MY ACCOUNT
15 Q2, 2005. PREVIOUS ONE WAS Q1.

16 Q. AND AGAIN, IT WAS SHOWING YOU PERFORMANCE AS
17 TO THE INVESTMENT?

18 A. YES.

19 MR. LUCEY: YOUR HONOR, THE GOVERNMENT
20 MOVES EXHIBIT 4 INTO EVIDENCE.

21 MR. FONG: NO OBJECTION.

22 THE COURT: ALL RIGHT IT'S RECEIVED.
23 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 4 HAVING
24 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
25 ADMITTED INTO EVIDENCE.)

1 BY MR. LUCEY:

2 Q. SO NOW MR. LIN, LET'S TURN BACK TO 26.

3 I WOULD ASK MS. BURNEY TO PUBLISH 26 TO
4 THE COURT. IF YOU COULD BLOW UP THE TEXT PORTION
5 OF THE DOCUMENT.

6 SO MR. LIN, I WANT TO CALL YOUR ATTENTION
7 TO THE SENTENCE IMMEDIATELY BELOW THE DATE
8 FEBRUARY 8TH, 2005.

9 IF YOU COULD READ THAT SENTENCE INTO THE
10 RECORD, SIR, THE AFOREMENTIONED AMOUNT.

11 A. THIS IS TO CONFIRM --

12 Q. JUST BELOW THE DATE OF FEBRUARY 8TH, 2005,
13 WHERE IT SAYS THE AFOREMENTIONED AMOUNT. THE
14 AFOREMENTIONED --

15 A. THE AFOREMENTIONED AMOUNT IS THE FIRST WIRING
16 FOR THE PURPOSE OF INVESTMENT INTO THE ASENQUA BETA
17 FUND.

18 Q. WAS IT IMPORTANT TO YOU THAT DOCUMENT THE
19 RECEIPT YOU RECEIVED FROM MR. HU SAID FOR THE
20 PURPOSE OF INVESTMENT INTO ASENQUA BETA FUND?

21 A. YES.

22 Q. WHAT DID YOU UNDERSTAND THAT TO MEAN IN THE
23 RECEIPT THAT YOU GOT FROM MR. HU?

24 A. THAT MEANS I DEPOSITED THE FIRST \$100,000 INTO
25 HIS COMPANY FOR THE SOLE PURPOSE OF INVESTMENT

1 BASED ON HIS PROPOSAL.

2 Q. AND DID YOU UNDERSTAND THAT THE INVESTMENT WAS
3 GOING TO BE CONSISTENT OR INCONSISTENT WITH THE
4 OBJECTIVES THAT WE LOOKED AT IN THE EXHIBIT 1
5 CASTILLO, LYN, COHEN & VIJAY?

6 A. IT WAS TO BE CONSISTENT WITH THE OBJECTIVE.

7 Q. THAT WAS LAID OUT IN THE REPORT FROM THE
8 AUDITING FIRM?

9 A. YES.

10 Q. OKAY. AND DO YOU RECOGNIZE THAT SIGNATURE
11 THAT FOLLOWS UNDERNEATH THE TEXT OF THIS DOCUMENT?

12 A. YES.

13 Q. WHOSE SIGNATURE IS THAT?

14 A. ALBERT K. HU.

15 Q. NOW SIR, I ASK WE TURN OUR ATTENTION TO
16 EXHIBIT 27.

17 MS. BURNEY, IF YOU COULD TURN TO THAT
18 DOCUMENT FOR THE COURT AND FOR THE JURY.

19 IF YOU COULD BLOW UP THE TOP PORTION.
20 YES, THANK YOU.

21 SO MR. LIN, WE'VE ALREADY BRIEFLY
22 DISCUSSED THIS DOCUMENT BUT LET'S LOOK AT IT AGAIN
23 NOW THAT IT'S IN EVIDENCE. THE ADDRESS LISTED ON
24 THIS ACCOUNT STATEMENT, FU-YUAN LIN 1996 TRUST, IS
25 THAT YOUR ADDRESS AT THAT TIME?

1 A. THAT WAS MY OFFICE ADDRESS AT THAT TIME.

2 Q. AND MR. LIN, DID YOU RECEIVE THIS DOCUMENT IN
3 THE MAIL?

4 A. I DON'T RECALL WHETHER IT WAS IN PERSON OR IN
5 MAIL.

6 Q. BUT YOU RECALL AT SOME POINT RECEIVING THIS
7 DOCUMENT IN OR AROUND THE STATEMENT DATE
8 FEBRUARY 23RD, 2005, LISTED ON THE DOCUMENT?

9 A. CORRECT.

10 Q. MR. LIN THERE'S INDICATIONS HERE OF THE
11 RECORDS OF WHAT'S GOING ON IN YOUR ACCOUNT. A
12 MONEY TRANSFER OF \$100,000 ON 2-8-2005?

13 A. YES.

14 Q. WHAT'S THE REFERENCE HERE ON 2-23-2005 ANOTHER
15 MONEY TRANSFER?

16 A. THAT'S MY SECOND WIRING.

17 Q. WHAT DID YOU UNDERSTAND YOUR BALANCE TO BE AS
18 OF THE DATE OF THIS DOCUMENT?

19 A. 200,000 AS OF THIS STATEMENT.

20 Q. OKAY. AND THIS IS SHORTLY AFTER YOU'VE WIRED
21 THE MONEY IN, CORRECT?

22 A. CORRECT.

23 Q. SO NOW I WOULD ASK MS. BURNEY TO BLOW UP THE
24 BOTTOM PORTION OF THE DOCUMENT WITH THE TWO
25 SIGNATURES.

1 MR. LIN, DO YOU RECOGNIZE -- DO YOU
2 RECALL SEEING THOSE SIGNATURES AT THE TIME YOU
3 REVIEWED THE DOCUMENT?

4 A. YES.

5 Q. WHAT DID YOU UNDERSTAND THOSE SIGNATURES TO
6 REPRESENT?

7 A. IT MEANS THIS UPDATED THE STATEMENT OF MY
8 ACCOUNT OF MY DEPOSIT, THEY WERE VERIFIED, RECEIVED
9 AND VERIFIED AND SIGNED BY THESE TWO-PERSON.

10 Q. AND THERE'S TWO -- THERE APPEARS TO BE TWO
11 SIGNATURES HERE CORRECT?

12 A. YES.

13 Q. THE ONE ON THE BOTTOM IS?

14 A. THAT'S ALBERT HU.

15 Q. WHAT PERSON IS SIGNING THE BOTTOM PORTION OF
16 THE DOCUMENT?

17 A. THE PRESIDENT, ALBERT HU.

18 Q. AND WHOSE SIGNATURE -- WHAT SIGNATURE IS
19 IMMEDIATELY ABOVE THAT?

20 A. THE CHIEF FINANCIAL OFFICER. ANTHONY POLLACK.

21 Q. WHAT ROLE DID YOU UNDERSTAND MR. POLLACK TO
22 HAVE IN THE COMPANY?

23 A. SUPPOSED TO BE THE FUNDS CFO.

24 Q. DID YOU EVER MEET THIS CFO?

25 A. NEVER.

1 Q. IN ALL OF YEARS OF INVESTMENT?

2 A. NEVER.

3 Q. WAS IT IMPORTANT TO YOU MR. LIN THAT THE
4 STATEMENT AND THE ONES WE ARE GOING TO LOOK AT
5 FOLLOWING HAVE BEEN REVIEWED BY AND SIGNED OFF ON
6 BY MR. POLLACK THE FUNDS REPORTED CFO?

7 A. YES, IT WAS IMPORTANT.

8 Q. WHY SO?

9 A. CFO -- IN ANY FINANCIAL STATEMENT CFO IS KEY.

10 Q. WHY IS THE CFO IMPORTANT?

11 A. HE'S RESPONSIBLE FOR ALL THE FINANCIAL RELATED
12 ISSUE, HE'S RESPONSIBLE TO VERIFY ALL THE FINANCIAL
13 STATEMENTS ARE CORRECT.

14 Q. AND HOW DID YOU UNDERSTAND YOUR INVESTMENT TO
15 BE DOING IF WE CAN NOW LOOK AT THE ENTIRETY OF THE
16 DOCUMENT AGAIN, MS. BURNEY.

17 HOW DID YOU UNDERSTAND YOUR INVESTMENT TO
18 BE DOING AS OF THE TIME OF YOUR SECOND WIRE?

19 A. THIS WAS THE BEGINNING, YEAH, THIS WAS THE
20 BEGINNING, JUST STARTED.

21 Q. OKAY. SO YOU UNDERSTAND THERE WAS \$200,000
22 HELD IN YOUR BENEFIT?

23 A. YES.

24 Q. IN THE ASENQUA BETA FUND?

25 A. CORRECT.

1 Q. SO MR. LIN, WHAT DID IT MEAN THE FACT THAT
2 THERE WAS TWO SIGNATURES AT THE BOTTOM OF THIS
3 DOCUMENT, MR. POLLACK AND MR. HU?

4 A. WHAT DID YOU TAKE THAT TO MEAN?

5 A. IT MADE ME FEEL MUCH MORE COMFORTABLE.

6 Q. WHY?

7 A. IT MADE THIS STATEMENT MUCH MORE TRUSTWORTHY.

8 Q. WHY SO?

9 A. IT'S A WELL STRUCTURED ORGANIZATION AND
10 THERE'S A GOVERNANCE THERE'S A TRUE GOVERNANCE OF
11 THE FUND SUPERVISING THE FUND FOR THE INVESTORS.

12 Q. AND DID THE SIGNATURE MEAN ANYTHING ABOUT THE
13 INFORMATION CONTAINED ON THE DOCUMENT, IS THERE ANY
14 CONNECTION IN THE SIGNATURES WE SEE AT THE BOTTOM
15 AND THE NUMBERS PROVIDED ABOVE?

16 A. I'M SORRY THE QUESTION ONE MORE TIME.

17 Q. I'M SORRY, MR. LIN.

18 MY QUESTION IS: IS THERE ANY CONNECTION
19 IN YOUR MIND IN YOUR REVIEWING THE DOCUMENT AT THE
20 TIME, BETWEEN THE FACT THAT THE NUMBERS LISTED
21 ABOVE THE \$200,000 TOTAL VALUE WE LOOKED AT EARLIER
22 AND THE TWO SIGNATURES BELOW?

23 A. IT MEANS THESE TWO PERSONS CONFIRMED THEY
24 RECEIVED BY 200,000 IN THE ACCOUNT. AND IT'S BEING
25 HELD BY THEM.

1 Q. YOU WERE UNDERSTANDING THEY WERE ATTESTING TO
2 THE VALUE IN THE ACCOUNT?

3 A. YES, THEY CONFIRM.

4 Q. MR. LIN, I WANT YOU TO TURN YOUR ATTENTION TO
5 EXHIBIT 3.

6 NOW MS. BURNEY, IF YOU COULD PUBLISH THE
7 ENTIRETY OF THE DOCUMENT BLOWING UP THE TOP
8 PORTION.

9 TO YOU, MR. LIN, THIS IS THE ACCOUNT
10 STATEMENT YOU RECEIVED IN APRIL 2005?

11 A. YES.

12 Q. AND AGAIN SHOWING THE TOTAL VALUE OF THE
13 ACCOUNT \$203,842?

14 A. YES.

15 Q. MS. BURNEY IF YOU COULD TURN TO THE SECOND
16 PAGE OF THE DOCUMENT BLOWING UP THE TOP PORTION.

17 YOU RECOGNIZE THOSE SIGNATURES?

18 A. YES.

19 Q. THOSE ARE MR. POLLACK AND MR. HU?

20 A. YES.

21 Q. MS. BURNEY, IF YOU COULD TURN TO EXHIBIT 4.

22 AND MS. BURNEY IF YOU COULD BLOW UP THE
23 SECOND HALF OF THAT BOX BEGINNING AT THE 6-30-05.

24 SO MR. LIN, THIS IS A STATEMENT YOU
25 RECEIVED IN OR AROUND JULY 28TH, 2005, EXHIBIT 4?

1 A. YES.

2 Q. AND LOOKING NOW AT THE BOTTOM PORTION OF THE
3 TOTAL VALUE BOX, IT APPEARS THERE'S ANOTHER
4 TRANSACTION GOING ON AS OF JULY 6, 2005?

5 A. YES.

6 Q. WHAT'S HAPPENING THERE?

7 A. THAT SHOULD BE MY THIRD WIRING INTO THE
8 ACCOUNT.

9 Q. SO NOW YOU ARE MAKING ANOTHER INVESTMENT; IS
10 THAT CORRECT?

11 A. YES.

12 Q. AND WHY DID YOU DECIDE TO MAKE ANOTHER
13 INVESTMENT AFTER YOU HAD ALREADY MADE A \$200,000
14 INVESTMENT IN FEBRUARY 2005?

15 A. YES, BECAUSE IF YOU LOOK AT HIS STATEMENT IN
16 MARCH AND APRIL, HE HAS ALREADY, IN A FEW SHORT
17 MONTHS HE HAS ALREADY MADE A VERY GOOD GAIN.
18 THERE'S A FOUR PERCENT OF A GAIN JUST WITHIN A
19 LITTLE MORE THAN 2 OR 3 MONTHS.

20 Q. SO MR. LIN YOU ARE LOOKING HERE YOU ARE
21 REFERRING IN YOUR TESTIMONY AS OF 6-30-05 YOUR
22 INVESTMENT HAD GONE UP TO \$213,000?

23 A. RIGHT.

24 Q. DID THAT CAUSE YOU TO BE MORE OR LESS LIKELY
25 HAVING READ AND REVIEWED IT MORE OR LESS LIKELY TO

1 MAKE AN INVESTMENT WITH MR. HU?

2 A. MORE LIKELY.

3 Q. HOW SO?

4 A. BECAUSE HE AT LEAST OUT PERFORM MY BANK.

5 Q. AND YOU UNDERSTOOD THAT TO BE A TRUE AND
6 ACCURATE STATEMENT OF YOUR INVESTMENT AT THAT TIME
7 AS OF JUNE 30TH?

8 A. BASED ON THIS STATEMENT, YES.

9 Q. AND SO ARE YOU TELLING US YOU THEN MADE A
10 DECISION TO MAKE ANOTHER INVESTMENT WITH MR. HU?

11 A. MR. HU ALSO ALONG THE TIME THOSE MONTHS, HE
12 HAS ON NUMEROUS OCCASIONS INFORMED ME THAT ALL
13 OTHER CLIENTS OF HIS HAVE A MUCH LARGER AMOUNT IN
14 THE FUND AND I WAS ONE OF THE SMALLER. SO BEING A
15 VERY GULLIBLE PERSON I DECIDED I SHOULD ALSO
16 INCREASE THE AMOUNT.

17 Q. SO IN ADDITION TO THE RETURN YOU WERE
18 RECEIVING IN TERMS OF WHAT MR. HU WAS PROVIDING YOU
19 WITH IN TERMS OF THE STATEMENT OF THE ACCOUNT AS OF
20 JUNE 30TH, 2005, AND THE CHANGE OF VALUE, MR. HU
21 WAS ALSO INDICATED YOUR INVESTMENT WAS SMALL
22 RELATIVE TO OTHER INVESTORS?

23 A. YES.

24 Q. AND WHY WAS THAT IMPORTANT TO YOU WHEN HE TOLD
25 YOU THAT?

1 A. WELL, I DID NOT WISH TO DRAG HIS AVERAGE DOWN.
2 I DON'T WANT TO BE THE PERSON WHO IS THE SMALLEST
3 BECAUSE TO ME BEING ABLE TO PARTICIPATE IN HIS
4 FUND, AT THAT TIME IT'S ALMOST A PRIVILEGE.

5 Q. SO, AND DURING THIS PERIOD OF TIME NOW, THE
6 STATEMENT WAS IN EXHIBIT 4, JULY 28TH, 2005, WHAT
7 PERSON IS YOUR PRIMARY POINT OF CONTACT AT THE
8 ASENQUA BETA FUND?

9 A. ALWAYS ALBERT HU. ALWAYS ALBERT HU.

10 Q. DID MR. HU TELL YOU ABOUT HOW HE WAS INVESTING
11 YOUR MONEY, THE PARTICULAR WAY HE WAS INVESTING
12 YOUR MONEY AT THIS TIME AS OF JUNE-JULY, 2005?

13 A. WELL, IN GENERAL TERMS, HE HAS, LIKE HE WILL
14 BUT NEVER SPECIFICS.

15 Q. DID HE MENTION ANY TRADERS OR PORTFOLIO
16 MANAGERS HE WAS WORKING WITH?

17 A. NO, HE DID NOT MENTION ANY INVESTMENT BANK
18 TRADER OTHER THAN STEVE BOND, HIS STAFF.

19 Q. WHAT DID HE TELL YOU WAS MR. BOND'S ROLE AT
20 THIS TIME?

21 A. MR. BOND, HE WAS THE ASSISTANT, MY
22 UNDERSTANDING.

23 Q. BUT MR. BOND WAS WORKING UNDERNEATH MR. HU?

24 A. YES.

25 Q. NOW MR. LIN AT SOME POINT WAS THERE EVER ANY

1 DISCUSSION ABOUT CHANGING THE NATURE OF THE
2 INVESTMENT, THE NAME OF THE FUND OR THE LOCATION OF
3 THE FUND WITH MR. HU?

4 A. YES. I THINK --

5 Q. TELL US ABOUT THAT IF YOU COULD?

6 A. I THINK -- AGAIN, I DON'T RECALL THE EXACT
7 TIME BUT IT CAME AFTER I WIRED IN 2 OR 3 TIMES ALL
8 TOGETHER THE \$450,000 INVEST. AND MR. HU
9 APPROACHED ME INFORMING ME THAT HE WANTED TO, HE
10 PROPOSED TO CHANGE THE STRUCTURE OF THE FUND.

11 Q. WHAT DID HE TELL YOU ABOUT WHAT HE WAS
12 ENVISIONING IN TERMS OF CHANGING THE STRUCTURE OF
13 THE FUND?

14 A. SURE. THIS I REMEMBER CLEARLY.

15 HE CAME OVER AND STATED THAT IN THE PAST
16 THE SO CALLED HEDGE FUNDS WERE NOT HEAVILY
17 REGULATED. I DID NOT UNDERSTAND WHETHER THERE WAS
18 OR NOT. BUT THE GOVERNMENT DECIDED TO REGULATE
19 U.S. HEDGE FUND MORE AND MORE.

20 SO HE TOLD ME BECAUSE OF THAT CHANGE IT
21 WOULD BECOME MUCH MORE EXPENSIVE TO MAINTAIN THE
22 U.S. BASED HEDGE FUND, IN THIS CASE THE ASENQUA
23 BETA FUND WHICH I INVESTED IN. SO HE NEEDS TO
24 CHANGE THE STRUCTURE.

25 Q. DO YOU HAVE EXPERIENCE WITH THAT LEGAL

1 STRUCTURE HE WAS TALKING ABOUT?

2 A. I DID NOT HAVE SUCH EXPERIENCE WITH THE HEDGE
3 FUND BUT I HAVE EXPERIENCES WITH STARTUP, YES,
4 STARTUP LIKE COMPANY IN TAIWAN, COMPANY IN CHINA,
5 COMPANY IN SINGAPORE, COMPANY IN U.S., YEAH.

6 Q. AND WAS ANY OF THAT EXPERIENCE IN CONNECTION
7 WITH HEDGE FUNDS?

8 A. NO.

9 Q. AND LAST THING BEFORE WE LEAVE EXHIBIT 4,
10 MS. BURNEY IF YOU COULD BLOW UP THE BOTTOM PORTION
11 OF THE DOCUMENT ON PAGE 82.

12 MR. LIN COULD YOU READ WHAT IT SAYS,
13 BELOW ONE OF TWO --

14 A. SAFE ALTERNATIVE FOR HIGH RETURN.

15 FOR ME IT'S A WONDERFUL WAY TO INVEST,
16 IT'S A VERY SAFE ALTERNATIVE FOR VERY HIGH RETURN.

17 Q. MR. LIN, I'M GOING TO APPROACH YOU WITH
18 ANOTHER DOCUMENT NOW, GOVERNMENT EXHIBIT 29. WOULD
19 YOU TAKE A MOMENT TO LOOK AT THAT DOCUMENT, PLEASE.

20 A. YES, I HAVE READ IT.

21 MR. LUCEY: YOUR HONOR, MAY I APPROACH
22 THE WITNESS?

23 THE COURT: SURE.

24 BY MR. LUCEY:

25 Q. I'M SHOWING YOU NOW WHAT HAS BEEN MARKED AS

1 GOVERNMENT EXHIBIT 30. WHAT IS THAT DOCUMENT, SIR?

2 A. THEY ARE TWO. WHICH ONE?

3 Q. I'M SORRY, WHAT IS THE DOCUMENT MARKED AS
4 EXHIBIT 30.

5 A. THE EXHIBIT 30 SAYS IT'S A FUND WITHDRAWAL
6 AGREEMENT.

7 Q. HOW DID YOU COME TO HAVE THIS DOCUMENT, SIR?

8 A. IT WAS PROVIDED BY MR. HU TO ME.

9 Q. AND TURNING BACK TO EXHIBIT 29, WHAT IS THAT
10 DOCUMENT, SIR?

11 A. THIS WAS AN ASENQUA BETA FUND, FUND NAME
12 CHANGES AND MANAGEMENT FIRM TRANSFER AGREEMENT.

13 Q. HOW DID YOU COME TO HAVE THIS DOCUMENT SIR?

14 A. ALSO PROVIDED BY MR. HU TO ME.

15 MR. LUCEY: YOUR HONOR, AT THIS POINT THE
16 GOVERNMENT WOULD MOVE 29 AND 30 INTO EVIDENCE.

17 MR. FONG: NO OBJECTION AS TO EITHER,
18 YOUR HONOR.

19 THE COURT: ALL RIGHT. THEY ARE
20 RECEIVED.

21 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 29 AND 30
22 HAVING BEEN PREVIOUSLY MARKED FOR IDENTIFICATION,
23 WERE ADMITTED INTO EVIDENCE.)

24 MR. LUCEY: MS. BURNEY, IF YOU COULD
25 PUBLISH FIRST EXHIBIT 29 FOR THE COURT AND JURY'S

1 BENEFIT, AND IF YOU COULD ENLARGE THE TOP PORTION
2 WHERE THE DATE IS SHOWN.

3 Q. MR. LIN THIS SAYS, ASENQUA BETA FUND, FUND
4 NAME CHANGE AND MANAGEMENT FIRM TRANSFER AGREEMENT
5 OCTOBER 25TH, 2005.

6 DOES THAT REFRESH YOUR RECOLLECTION AS TO
7 WHEN THIS DISCUSSION WAS GOING ON REGARDING THE
8 NAME CHANGE?

9 A. YES, IT WAS AROUND THAT TIME.

10 Q. AND THEN NOW, MS. BURNEY IF YOU COULD NOW BLOW
11 UP THE PORTION READING I, BOB LIN, DOWN TO ON
12 OCTOBER 25TH.

13 I WILL READ THE PORTION INTO THE RECORD.

14 THE NAME BE CHANGED FROM ASENQUA BETA
15 FUND TO FIRESIDE LS FUND. THAT THE MANAGEMENT FIRM
16 BE CHANGED FROM ASENQUA CAPITAL MANAGEMENT LLC TO
17 FIRESIDE CAPITAL MANAGEMENT LIMITED A SINGAPORE
18 COMPANY ON OCTOBER 25TH, 2005.

19 MR. LIN, WHEN YOU RECEIVED THIS DOCUMENT
20 FROM MR. HU WHAT DID YOU UNDERSTAND THIS DOCUMENT
21 WAS PROVIDING FOR?

22 A. SURE. MR. HU INFORMED ME TO REDUCE THE COST
23 OF MANAGING HIS FUND HE WISHES TO TRANSFER
24 EVERYTHING IN ASENQUA BETA FUND TO SOME PLACE ELSE.
25 SO IT MEANS FIRST OF ALL THE ORIGINAL ASENQUA BETA

1 FUND TRANSFERRED TO A NEW NAME CALLED FIRESIDE LS
2 FUND. AND THE ASENQUA BETA FUND CHANGED TO
3 FIRESIDE CAPITAL MANAGEMENT A SINGAPORE COMPANY.

4 Q. NOW DID YOU HAVE A DISCUSSION AT THIS TIME
5 WITH MR. HU OF HOW THIS WOULD AFFECT YOUR
6 INVESTMENT WITH ASENQUA BETA FUND IN THE SENSE OF
7 WAS THE MONEY IN THERE AT THAT TIME GOING TO
8 TRANSFER WERE YOU GOING TO LOSE VALUE; DO YOU HAVE
9 A DISCUSSION ABOUT THAT?

10 A. YES, OF COURSE, THAT WAS VERY IMPORTANT. AT
11 THAT TIME BASED ON MY LAST STATEMENT OF THE
12 BALANCE, I HAVE A CERTAIN AMOUNT IN ASENQUA BETA
13 FUND. AND THEY TOLD ME THEY WOULD TRANSFER
14 EVERYTHING INTO THIS NEW FUND, NOTHING HAS CHANGED.
15 AND ALBERT HU HIMSELF WILL STILL BE THE PRIMARY
16 MANAGEMENT.

17 Q. DID YOU UNDERSTAND THEN YOUR INVESTMENT WAS
18 STILL SECURE WITH MR. HU AT THAT TIME?

19 A. YES.

20 Q. SO NOW I ASK IF MS. BURNEY COULD PUBLISH
21 EXHIBIT 30 TO THE JURY. AND IN PARTICULAR THE TOP
22 PORTION OF THE DOCUMENT ENDING IN "ONLY."

23 SO MR. LIN, CALLING YOUR ATTENTION TO
24 EXHIBIT 30. I WILL READ THE DOCUMENT INTO THE
25 RECORD AND ASK YOU A QUESTION ABOUT IT.

1 I, FU-YUAN LIN REPRESENTING FU-YUAN LIN
2 1996 TRUST, WITHDRAW FROM ASENQUA BETA FUND THE
3 AMOUNT OF IF I HAVE HUNDRED \$562,331.82. THEN IT
4 READS \$562,331.82 ONLY.

5 WHAT WAS THE SIGNIFICANCE, AS YOU
6 UNDERSTOOD IT, OF THAT NUMBER? WHAT WAS THAT
7 NUMBER REPRESENTING?

8 A. THIS NUMBER REPRESENTED BY BALANCE BEFORE MY
9 ORIGINAL DEPOSIT PLUS THE GAINS OF MY INVESTMENT
10 PERFORMANCE.

11 Q. SO IF I'M UNDERSTANDING YOU, YOU INVESTED
12 ROUGHLY THE FIRST 200,000 YOU INVESTED IN
13 FEBRUARY 2005?

14 A. YES.

15 Q. THEN YOU INVESTED A FURTHER \$250,000?

16 A. YES.

17 Q. IN JULY '05?

18 A. YES.

19 Q. I'M NOT THAT GREAT AT MATH BUT I THINK THAT'S
20 \$450,000 YOU HAD INVESTED AT THAT POINT?

21 A. YES.

22 Q. BUT THE TOTAL VALUE OF YOUR INVESTMENT WAS NOW
23 ACCORDING TO MR. HU AND THE DOCUMENTS 562,000 PLUS?

24 A. YES, \$562,331.82.

25 Q. SO WERE YOU SATISFIED OUT OF THE MONEY OUT OF

1 THE ASENQUA BETA FUND SATISFIED WITH THE
2 PERFORMANCE THUS FAR BY MR. HU?

3 A. I WAS VERY, VERY SATISFIED BECAUSE THAT'S A
4 GAIN OF VERY LARGE PERCENTAGE.

5 Q. NOW I WILL SHOW YOU A SERIES OF ADDITIONAL
6 DOCUMENTS, MR. LIN. AS PART OF THE PROCESS FOR
7 THIS TRANSFER TO FIRESIDE WERE YOU PROVIDED ANOTHER
8 SUBSCRIPTION BOOKLET, SIR?

9 A. YES.

10 Q. FOR FIRESIDE?

11 A. YES.

12 MR. LUCEY: YOUR HONOR, MAY I APPROACH?

13 THE COURT: SURE.

14 Q. MR. LIN, I'M SHOWING YOU NOW WHAT HAS BEEN
15 MARKED PREVIOUSLY GOVERNMENT'S EXHIBIT 5.

16 AGAIN SIR, THIS IS A MULTI PAGE DOCUMENT
17 UPWARDS OF 30 PAGES. I WILL ASK YOU TO REVIEW IT
18 BEFORE I ASK YOU ANY QUESTIONS ABOUT IT.

19 A. YES.

20 Q. SO MR. LIN, DO YOU RECOGNIZE WHAT'S BEEN
21 MARKED AS GOVERNMENT EXHIBIT NUMBER 5?

22 A. YES.

23 Q. WHAT IS THIS DOCUMENT?

24 A. IT'S A FIRESIDE LS FUND, LTD, SUBSCRIPTION
25 BOOKLET.

1 Q. AND SIR, HOW DO YOU RECOGNIZE THIS DOCUMENT?

2 A. IT'S A DOCUMENT PROVIDED BY MR. HU TO ME TO
3 SET UP AN ACCOUNT WITH HIS FIRESIDE LS FUND.

4 Q. AND THIS WAS AROUND THE TIME YOU WERE
5 TRANSITIONING MONEY, CORRECT?

6 A. CORRECT.

7 Q. I CALL YOUR ATTENTION TO PAGE 18 OF THIS
8 DOCUMENT. IT'S BATES 101. AND BEFORE I DO THAT I
9 HAVE TO MOVE IT INTO EVIDENCE.

10 YOUR HONOR, I MOVE EXHIBIT 5 INTO
11 EVIDENCE.

12 MR. FONG: NO OBJECTION.

13 THE COURT: 5 IS RECEIVED.

14 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 5 HAVING
15 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
16 ADMITTED INTO EVIDENCE.)

17 MR. LUCEY: MS. BURNEY, IF YOU COULD TURN
18 TO THAT PAGE.

19 Q. FIRST I CALL YOUR ATTENTION, MR. LIN, TO THE
20 BOTTOM PORTION OF THE DOCUMENT ACCEPTED AND AGREED
21 AS OF NOVEMBER 25TH, 2005?

22 A. YES.

23 Q. AND WHOSE SIGNATURE DO YOU RECOGNIZE THAT TO
24 BE UNDER THE FIRESIDE?

25 A. MR. ALBERT HU, THE PRESIDENT.

1 Q. THE DATE ON THIS DOCUMENT, NOVEMBER 25TH OF
2 2005?

3 A. YES.

4 Q. IS THAT CONSISTENT WITH YOUR MEMORY OF THE
5 TIMING OF THIS?

6 A. I THINK SO.

7 Q. YES, SIR. OKAY.

8 THEN I CALL YOUR ATTENTION NOW TO THE TOP
9 PORTION OF THE DOCUMENT.

10 MS. BURNEY, IF YOU COULD BLOW UP THE
11 UNDERSIGNED COMMITMENT IS. THIRD LINE DOWN. IT
12 SAYS, "THE UNDERSIGN'S COMMITMENT IS \$300,000."

13 IT GOES ON TO SAY, IN WITNESS WHEREOF,
14 THE UNDERSIGNED HAS EXECUTED THIS SIGNATURE PAGE
15 NOVEMBER 25, 2005.

16 WHAT DO YOU UNDERSTAND THIS TO MEAN,
17 MR. LIN?

18 A. THIS MEANS MR. HU REQUESTS IN ORDER TO SET UP
19 THE -- MY ACCOUNT IN FIRESIDE, IT WAS NOT
20 SUFFICIENT TO JUST TRANSFER ORIGINAL MONEY FROM
21 ASENQUA BETA FUND INTO IT. I NEED TO OPEN IT WITH
22 ADDITIONAL FUND. WHICH IS CONSISTENT WITH WHAT HE,
23 SEVERAL TIMES INFORMED ME THAT ALL HIS CLIENTS ARE
24 AT THE MILLION DOLLAR LEVEL.

25 Q. AND HOW MUCH BASED ON THIS DOCUMENT HOW MUCH

1 WERE YOU COMMITTING NOW IN TOTAL TO GIVE TO MR. HU?

2 A. \$300,000 MORE.

3 Q. SO THAT WOULD BE HOW MUCH TOTAL ALL TOGETHER?

4 A. PLUS THE PREVIOUS 450, IT WAS MAKE IT 450.

5 BUT PLUS THE GAIN IT WOULD BE 800 SOMETHING.

6 Q. I'M PROBABLY NOT ASKING THE QUESTION

7 CORRECTLY.

8 SO PRIOR TO THIS TIME WE JUST COVERED A
9 MOMENT AGO YOU INDICATED THAT YOU UNDERSTOOD AS OF
10 THE TIME YOU WERE TRANSITIONING OUT OF THE ASENQUA
11 BETA FUND YOU HAD INVESTED A TOTAL OF \$450,000
12 CORRECT?

13 A. CORRECT.

14 Q. NOW UNDER THIS NEW COMMITMENT OF \$300,000
15 ADDING TO THAT THE TOTAL COMMITMENT WILL BE ONCE
16 YOU COMPLETE YOUR WIRE TRANSACTIONS OR GETTING THE
17 MONEY TO MR. HU WAS GOING TO BE \$750,000; IS THAT
18 CORRECT?

19 A. CORRECT.

20 Q. NOW MR. LIN, IF YOU COULD TURN YOUR ATTENTION
21 TO PAGE 15 OF THIS DOCUMENT WHICH IS BATES STAMPED
22 NUMBER 98.

23 MS. BURNEY, IF YOU COULD BLOW UP FOR THE
24 BENEFIT OF THE COURT AND THE JURY PARAGRAPH NUMBER
25 12.

1 MR. LIN ARE YOU ON THAT PAGE NOW?

2 A. YES.

3 Q. MR. LIN, DO YOU RECALL READING AMONG THE OTHER
4 PORTIONS OF THE BOOKLET ON FIRESIDE, THIS PAGE ON
5 THIS PARAGRAPH, SIR. DO YOU RECALL READING THIS
6 PARAGRAPH AT THE TIME OF YOUR INVESTMENT?

7 A. YES.

8 Q. WHAT DOES THIS PARAGRAPH REFER YOU IN GENERAL
9 TERMS WHAT'S THE TITLE OF THE PARAGRAPH, SIR?

10 A. LEGAL REPRESENTATION, WAIVER OF CONFLICTS.

11 Q. I'M GOING TO READ A PORTION NOW INTO THE
12 RECORD AND ASK YOU A QUESTION, MR. LIN.

13 THE INVESTOR UNDERSTANDS THAT PROSKAUER
14 ROSE LLP, PROSKAUER, HAS BEEN ENGAGED TO ACT AS
15 LEGAL COUNSEL TO THE FUND, THE INVESTMENT MANAGER,
16 THE ORDINARY SHAREHOLDER AND THE MASTER FUND,
17 CORRECTIVELY THE FUND AFFILIATED GROUP. PROSKAUER
18 HAS NOT BEEN ENGAGED TO PROTECT OR REPRESENT THE
19 PARTICIPATING SHARES OF ANY SHAREHOLDER WITH REGARD
20 TO THE FUND AFFILIATED GROUP OR THE PREPARATION OF
21 THIS SUBSCRIPTION AGREEMENT. AND NO OTHER LEGAL
22 COUNSEL HAS BEEN ENGAGED BY THE FUND AFFILIATED
23 GROUP TO ACT IN SUCH CAPACITY.

24 MR. LIN, WHAT DID YOU UNDERSTAND THIS
25 SENTENCE TO MEAN AT THE TIME YOU REVIEWED THE

1 DOCUMENT BACK PRIOR TO MAKING YOUR ADDITIONAL
2 \$300,000 COMMITMENT?

3 A. TO ME THE MOST IMPORTANT THING IS THIS
4 AGREEMENT AND THIS NEW FUND HAS BEEN EITHER SET UP
5 OR HELP US SET UP BY THIS PROSKAUER ROSE, LLP.

6 Q. WHAT DID YOU TAKE IT TO MEAN WHERE IT SAYS IN
7 THE FIRST SENTENCE PROSKAUER ROSE, LLP HAS BEEN
8 ENGAGED TO ACT AS LEGAL COUNSEL TO THE FUND. DOES
9 THAT MEAN IT'S STILL -- THEY MIGHT BE RETAINED?

10 A. I READ IT AS THEY HAD BEEN RETAINED.

11 Q. SO IT'S ALREADY BEEN DONE IT'S ALREADY
12 HAPPENED?

13 A. YES.

14 Q. AND MR. LIN, DID THE REFERENCE TO THIS LAW
15 FIRM IN THAT SENTENCE IN THE REMAINDER OF THE
16 PARAGRAPH MAKE YOU MORE OR LESS LIKELY TO INVEST
17 INTO THE FUND?

18 A. MORE LIKELY.

19 Q. WHY SO?

20 A. IT MEANS THEY ESTABLISHED A NEW STRUCTURE
21 THROUGH A PROPER LEGAL PROCESS. SO EVERYTHING
22 LEGIT.

23 Q. WHAT DO YOU MEAN BY LEGIT?

24 A. LEGIT MEANS ALL THE ESTABLISHMENTS SET UP
25 FOLLOW THE GUIDELINE RULES OF THE GOVERNANCE.

1 Q. AND MR. LIN, IF YOU HAD KNOWN AT THE TIME YOU
2 RECEIVED THIS DOCUMENT FROM MR. HU THAT THIS FIRM
3 PROSKAUER ROSE HAD IN FACT NOT BEEN RETAINED BY THE
4 TIME YOU RECEIVED THIS DOCUMENT FROM MR. HU, WOULD
5 YOU HAVE STILL HAVE INVESTED IN THE FIRESIDE LS
6 FUND?

7 A. NO, I WOULD NOT.

8 Q. WHY NOT?

9 A. THAT WOULD MEAN THIS DOCUMENT WAS FALSE IT WAS
10 A FABRICATION, NOT REAL.

11 Q. AND WHY IS THAT SIGNIFICANT TO YOU?

12 A. WELL AGAIN, ALL THE STRUCTURE NEEDS TO BE
13 COMPLIANT WITH THE RULES AND GOVERNANCE AND
14 REGULATIONS. THEY NEED TO BE SET UP BY A LEGAL
15 COUNSEL.

16 Q. AND WOULD THAT ISSUE ABOUT THE TRUTH OR LACK
17 OF TRUTH OF THIS STATEMENT SIR IN PARAGRAPH 12,
18 WOULD THAT HAVE HAD AN AFFECT ON YOUR TRUST
19 RELATIONSHIP WITH MR. HU AT THE TIME?

20 A. OH, YEAH. I TRUST. I TRUST THIS DOCUMENT
21 BECAUSE HIS PERFORMANCE HAS BEEN VERY GOOD AND HE
22 HAS.

23 Q. UP TO THIS POINT?

24 A. UP TO THIS POINT, YEAH.

25 Q. AND NOW, MR. LIN GOING ON FURTHER, IF YOU KNEW

1 AT THE TIME YOU RECEIVED THIS DOCUMENT, EXHIBIT 5,
2 AND THIS PARAGRAPH IN PARTICULAR IN YOUR REVIEWING
3 OF IT, THAT THIS FIRM PROSKAUER ROSE HAD NEVER EVEN
4 HEARD OF MR. HU, OR THIS FUND AT THIS TIME, WOULD
5 YOU STILL HAVE INVESTED IN THE FIRESIDE LS FUND?

6 A. NO, I WOULD BE IN SHOCK.

7 Q. WHY SO?

8 A. THAT MEANS THIS -- IF THIS DOCUMENT WAS
9 FALSELY CREATED, IT COULD ALSO MEAN OTHER DOCUMENTS
10 HAVE ALSO BEEN FALSELY CREATED.

11 Q. WOULD IT HAVE CREATED DOUBTS ABOUT THE
12 REMAINDER OF THE INFORMATION YOU HAD GOTTEN TO THAT
13 POINT?

14 A. YES, YES.

15 Q. MR. LIN, I'M NOW GOING TO SHOW YOU A SERIES OF
16 DOCUMENTS GOVERNMENT'S 31, AND 6 THROUGH 11.

17 MR. LUCEY: YOUR HONOR, IF I MAY APPROACH
18 THE WITNESS.

19 THE COURT: YES.

20 IF YOU ARE JUST DELIVERING A DOCUMENT TO
21 THE WITNESS YOU DON'T NEED TO ASK TO APPROACH.

22 MR. LUCEY: CERTAINLY, YOUR HONOR.
23 UNDERSTOOD.

24 Q. MR. LIN, I'M NOW PLACING IN FRONT OF YOU A
25 SERIES OF DOCUMENTS THAT HAVE BEEN MARKED

1 PREVIOUSLY AS GOVERNMENT'S EXHIBIT 31 THEN
2 GOVERNMENT'S EXHIBIT 6 THROUGH 11 CONSECUTIVELY.

3 IF YOU COULD TAKE A MOMENT TO LOOK AT
4 EACH OF THOSE PAGES THEN I WILL HAVE SOME QUESTIONS
5 FOR YOU.

6 A. YES.

7 Q. SO MR. LIN, THE FIRST FEW DOCUMENTS I WANT
8 TO -- LET'S LOOK AT THEM ALL FIRST TO MAKE SURE WE
9 HAVE THEM IN FRONT OF US IN EVIDENCE THEN WE WILL
10 LOOK AT THEM MORE CAREFULLY AFTER THAT ONCE THEY
11 ARE IN.

12 ASSUMING THEY ARE BY THE COURT. MR. LIN
13 LOOKING FIRST AT EXHIBIT 31, WHAT IS THIS DOCUMENT,
14 SIR?

15 A. THIS IS THE QUARTERLY STATEMENT OF THE
16 FIRESIDE LS FUND AFTER I WIRED IN THE 300,000
17 ADDITIONAL FUND.

18 Q. AND THE STATEMENT --

19 A. TO OPEN THE ACCOUNT AT FIRESIDE.

20 Q. AND THE STATEMENT DATE JANUARY 27, 2006; IS
21 THAT CORRECT?

22 A. YEAH, ABOUT RIGHT.

23 Q. AND MR. LIN, HOW DID YOU COME TO HAVE THIS
24 DOCUMENT?

25 A. IT WAS PROVIDED TO ME BY MR. HU.

1 MR. LUCEY: YOUR HONOR, THE GOVERNMENT
2 MOVES EXHIBIT 31 INTO EVIDENCE.

3 MR. FONG: NO OBJECTION, YOUR HONOR.

4 THE COURT: IT'S RECEIVED.

5 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 31 HAVING
6 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
7 ADMITTED INTO EVIDENCE.)

8 BY MR. LUCEY:

9 Q. NOW MR. LIN IF YOU COULD TURN YOUR ATTENTION
10 TO 6, 7, 8, 9, 10 AND 11, SIR.

11 A. YES.

12 Q. ARE ALL THESE DOCUMENTS SIMILAR?

13 A. THEY WERE ALL QUARTERLY STATEMENTS FROM
14 FIRESIDE LS FUND TO ME. EACH QUARTER THROUGH 2006.
15 ALL THE WAY TO 2007.

16 Q. HOW DO YOU RECOGNIZE THESE DOCUMENTS, SIR?

17 A. THESE WERE PROVIDED TO ME BY MR. HU.

18 MR. LUCEY: YOUR HONOR THE GOVERNMENT
19 MOVES GOVERNMENT'S EXHIBIT 6, 7, 8, 9, 10 AND 11
20 INTO EVIDENCE.

21 MR. FONG: NO OBJECTION.

22 THE COURT: THEY ARE RECEIVED.

23 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBERS 6 THROUGH
24 11, HAVING BEEN PREVIOUSLY MARKED FOR
25 IDENTIFICATION, WERE ADMITTED INTO EVIDENCE.)

1 BY MR. LUCEY:

2 Q. MR. LIN, LET'S LOOK AT NUMBER 6 FIRST.

3 I'M NOW PUBLISHING TO THE COURT AND JURY
4 TWO EXHIBITS, 31 WHICH IS ON THE LEFT AND 6 ON THE
5 RIGHT SIDE OF THE SCREEN.

6 MS. BURNEY IF YOU COULD BLOW UP ON THE
7 LEFT-HAND SIDE THE BOX, AND THE SAME ON THE
8 RIGHT-HAND SIDE DOCUMENT.

9 IS IT POSSIBLE TO MAKE IT ANY LARGER?
10 FOR THE BENEFIT OF THE JURY I THINK IT WOULD BE
11 DIFFICULT TO READ THOSE TWO SO WHY DON'T WE GO WITH
12 ONE AT A TIME. LET'S START WITH 31, MS. BURNEY.
13 IF YOU COULD BLOW UP THE BOX NOW.

14 SO NOW, MR. LIN, THIS DOCUMENT INDICATES
15 WHAT AS YOU UNDERSTOOD IT AT THE TIME YOU RECEIVED
16 IT?

17 A. IT INDICATED MY LAST WIRING OF \$300,000 HAS
18 BEEN RECEIVED BY THE NEWLY CREATED FIRESIDE LS
19 FUND.

20 Q. BUT IT DOESN'T APPEAR TO REFLECT ANYTHING
21 ABOUT YOUR MONEY MOVING OVER FROM ASENQUA BETA
22 FUND, CORRECT?

23 A. YES.

24 Q. THE \$500,000 WE LOOKED AT EARLIER?

25 A. YES.

1 Q. SO NOW LET'S TURN TO EXHIBIT 6. THEN
2 MS. BURNEY IF YOU COULD BLOW UP THAT PORTION OF THE
3 BOX.

4 WHAT IS THIS BOX REFLECT, MR. LIN, AS YOU
5 UNDERSTOOD IT?

6 A. IT MEANS THAT MY TRANSFER FROM THE ORIGINAL
7 ASENQUA BETA FUND HAS ALSO BEEN TRANSFERRED AND
8 RECEIVED BY THE NEWLY CREATED FIRESIDE LS FUND.

9 Q. NOW I CALL YOUR ATTENTION TO EXHIBIT NUMBER 8.
10 AND MS. BURNEY IF YOU COULD DO A BLOW UP OF THE BOX
11 ON PAGE 123.

12 MR. LIN, CALLING YOUR ATTENTION TO THE
13 ITEMIZED LISTING, IF I'M FOLLOWING THIS DOCUMENT
14 CORRECTLY, CORRECT ME IF I'M WRONG, IT SAYS
15 12-20-05 THERE'S A MONEY TRANSFER OF 300,000,
16 CORRECT

17 A. CORRECT.

18 Q. AND THEN THERE'S A FURTHER TRANSFER ON
19 1-1-2006 OF 562,000? SO WHAT DO THOSE TWO NUMBERS
20 REPRESENT? ARE THE TWO NUMBERS NOW BEING PUT
21 TOGETHER?

22 A. YES.

23 Q. SO WHAT WAS YOUR TOTAL VALUE IN THE FIRESIDE
24 FUND, IN THIS NEW FIRESIDE FUND, BASED ON YOUR NEW
25 PRIOR COMMITMENT AS OF 1-1-06?

1 A. THE TOTAL AMOUNT AT THE BOTTOM SHOWED
2 \$1,123,404.26.

3 Q. AND THAT'S THE BALANCE AS OF 3-31-07, CORRECT?

4 A. END OF Q1.

5 Q. BUT THE BALANCE AS OF 1-1-06 WAS HOW MUCH IN
6 THE MIDDLE OF THE PAGE THERE, MR. LIN, IT SAYS
7 JANUARY 1, 2006, TRANSFER?

8 A. \$863,403.03.

9 Q. AND BETWEEN THAT TIME JANUARY 1, 2006, ON OR
10 ABOUT MARCH 31ST, 2007, BASED ON THE STATEMENT WHAT
11 DID YOU UNDERSTAND YOUR VALUE OF YOUR INVESTMENT
12 WAS DOING WAS IT GOING UP OR DOWN?

13 A. IT'S DOING FANTASTIC IT'S UP. THERE WAS ONE
14 SMALL PERIOD OF ONE MONTH DOWN. BUT ALL OTHER
15 MONTHS WERE UP AND UP QUITE SIGNIFICANTLY.

16 Q. OKAY. AGAIN TURNING TO THE SECOND PAGE OF
17 THIS EXHIBIT 8, WHOSE SIGNATURES ARE ON THE BOTTOM
18 OF THE DOCUMENT?

19 A. MR. ALBERT HU AND ANTHONY POLLACE.

20 Q. AND AGAIN YOU TOOK THE SIGNATURES TO MEAN THE
21 SAME THING YOU TESTIFIED TO EARLIER. THEY ATTESTED
22 TO THE TRUTH AND ACCURACY OF THESE STATEMENTS?

23 A. YES.

24 Q. TURNING NOW MR. LIN TO EXHIBIT 10. GOING
25 AHEAD SIX MONTHS IN TIME.

1 A. OKAY.

2 Q. AND MS. BURNEY, IF YOU COULD TURN TO PAGE TWO
3 OF THIS DOCUMENT AND ENLARGE THE BOX PORTION AT THE
4 TOP OF THE PAGE.

5 SO MR. LIN THERE APPEARS TO BE MORE
6 ACTIVITY GOING ON IN YOUR ACCOUNT IN SPRING OF 2007

7 A. YES.

8 Q. THERE'S AN INDICATION OF 5-13-07 A WIRE IN?

9 A. I WIRED IN \$250,000 MORE.

10 Q. SO YOU ARE MAKING A FURTHER INVESTMENT NOW?

11 A. YES, THAT WAS MY LAST ONE.

12 Q. AND HOW MUCH WAS YOUR TOTAL INVESTED WITH
13 MR. HU AT THIS POINT?

14 A. BY THIS TIME, I FINALLY REACHED HE TOLD ME
15 MOST PEOPLE ARE 1 MILLION. SO THIS ADDED UP TO MY
16 TOTAL INVESTMENT OF \$1 MILLION.

17 Q. AND WHY WAS IT SO IMPORTANT TO YOU TO REACH
18 THAT \$1 MILLION THRESHOLD WITH MR. HU'S FUND?

19 A. AT LEAST I MEET THE MINIMUM OF HIS AVERAGE
20 CLIENTS.

21 Q. AND HOW IS THE PERFORMANCE OF THE FUND DOING
22 AS OF SEPTEMBER 30TH, 2007, BASED ON THIS STATEMENT
23 WHEN YOU RECEIVED IT AT THAT TIME?

24 A. YES IT SAYS THE TOTAL VALUE OF \$1,553,245.23.

25 Q. AND MR. LIN, HAD THE STATEMENTS WE LOOKED AT

1 NOW THAT PRECEDED THE DATE OF YOUR LAST WIRE OF
2 5-13-07 AS RECORDED ON THE STATEMENT, DID THOSE
3 STATEMENTS HAVE ANY AFFECT ON YOUR PROVIDING
4 ADDITIONAL INVESTMENT TO MR. HU?

5 A. SORRY?

6 Q. WE LOOKED AT JUST A MOMENT AGO THE LAST
7 EXHIBIT WE LOOKED AT BEFORE NUMBER TEN WAS NUMBER
8 EIGHT. AND WE SAW AS OF MARCH 31ST, 2007, YOUR
9 BALANCE WAS ROUGHLY OVER A MILLION DOLLARS,
10 CORRECT?

11 A. MY INVESTMENT WAS 750 BUT TOTAL BALANCE AT
12 THAT TIME WAS MORE THAN THAT.

13 Q. SO THE FACT OF AS OF MARCH 31ST, 2007, BASED
14 ON EXHIBIT 8 THE VALUE OF YOUR INVESTMENT IN
15 FIRESIDE FUND, DID THAT PLAY ANY ROLE IN YOUR
16 PROVIDING WHAT YOU CALL YOUR LAST INVESTMENT WITH
17 MR. HU THAT OCCURRED ON OR ABOUT MAY 13TH, 2007?

18 A. IT'S VERY OUT STANDING PERFORMANCE.

19 Q. AND THAT PLAYED A ROLE IN YOUR MAKING A
20 FURTHER INVESTMENT?

21 A. YES.

22 Q. NOW I WANT TO CALL YOUR ATTENTION TO
23 EXHIBIT 11, THE SECOND PAGE, THE TOTAL VALUE NUMBER
24 LISTED THERE.

25 SO MR. LIN, THIS EXHIBIT 11 THIS IS THE

1 STATEMENT DATE OF DECEMBER 31ST, 2007, ON PAGE ONE
2 OF THE DOCUMENT. WHAT IS THE TOTAL VALUE YOU
3 UNDERSTOOD YOU HAD WITH MR. HU --

4 A. \$1,711,567.52.

5 Q. AND YOU UNDERSTOOD THAT MONEY WAS ALL
6 MAINTAINED FOR YOUR BENEFIT WITH MR. HU AND
7 FIRESIDE?

8 A. YES.

9 Q. THAT WAS BASED ON ALL THESE DOCUMENTS THAT WE
10 HAVE BEEN LOOKING AT NOW PARTICULARLY THE QUARTERLY
11 STATEMENTS?

12 A. YES.

13 Q. NOW GIVEN ALL OF THAT, DID THERE EVER COME A
14 TIME AFTER THIS DOCUMENT WE ARE LOOKING AT,
15 EXHIBIT 11, THAT YOU CAME TO HAVE SOME CONCERNS
16 ABOUT THE SECURITY OF YOUR INVESTMENT IN THE
17 FIRESIDE FUND?

18 A. YES.

19 Q. AND WHY WAS THAT?

20 A. OVER THE COURSE OF THOSE MORE THAN TWO YEARS,
21 '05, '06, '07, THROUGH NUMEROUS DISCUSSIONS I HAVE
22 STARTED WITH ASKING MR. HU, ALL WE HAVE, ALL WE
23 EVER GOT IS THIS DOCUMENT PROVIDED BY YOU.

24 AND TYPICALLY MY OTHER THINGS, MY OTHER
25 INVESTMENTS YOU HAVE A CUSTODIAN MAYBE A BANK A

1 THIRD-PARTY BANK TO VALIDATE THIS IS TRUE. THAT'S
2 ONE.

3 AND TWO, THEY WILL GIVE YOU QUARTERLY
4 STATEMENTS OR MONTHLY STATEMENTS. THIS BANK OR THE
5 FUND WILL PROVIDE THE MUTUAL FUND WILL TELL YOU
6 THAT THESE ARE THE PORTFOLIO, WHEN WE BOUGHT HOW
7 MUCH OF THIS AND WHEN WE SOLD, THEN A LONG LIST OF
8 THEM. SO YOU KNOW EXACTLY WHAT WENT ON.

9 BUT THAT TO US HERE, WE NEVER GOT THOSE.

10 Q. SO IF I CAN, MAYBE I CAN CLARIFY YOUR ANSWER
11 OR EXPOUND ON IT, MR. LIN. ARE YOU TELLING US THAT
12 YOU WERE LOOKING FOR THE BACK UP FOR THE
13 INFORMATION CONTAINED IN THESE QUARTERLY
14 STATEMENTS?

15 A. YES. I WAS VERY HAPPY WITH THE PERFORMANCE
16 NUMBER. I GRADUALLY FOUND IT AS UNSUPPORTED.

17 Q. WHY WAS THAT?

18 A. LIKE I SAID EARLIER, I REQUESTED TO SEE THE
19 DETAIL OF YOUR TRANSACTION. THESE ARE VERY BASIC
20 DOCUMENTS. ANY FUND MANAGER WOULD NEED TO PROVIDE.

21 Q. MR. LIN, DID YOU SPEAK TO MR. HU ABOUT YOUR
22 CONCERNS?

23 A. YES, I REQUEST MORE INFORMATION OR INVESTMENT
24 BANK CONTACT.

25 Q. AND JUST SO WE CAN FIX OURSELVES IN TIME HERE,

1 WHAT'S THE TIME FRAME WE ARE TALKING ABOUT WHEN
2 THESE CONCERNS STARTED TO COME ABOUT FOR YOU?

3 A. YEAH. AFTER ALL THESE INVESTMENTS WERE DONE
4 AND THERE WAS ANOTHER GENTLEMAN FRIEND OF MINE WHO
5 ALSO INVESTED, JEAN VERDIELL WHO ALSO INVESTED IN
6 THE FUND. AND HE AND I WERE TALKING ABOUT THE
7 GREAT PERFORMANCE. WE WERE TALKING ABOUT HOW IT
8 WAS ALL OPAQUE THERE WAS NO TRANSPARENCY. IT'S
9 LIKE WE HAD BEEN IN THE DARK FOR QUITE SOME TIME.

10 Q. AFTER THAT CONVERSATION WITH MR. VERDIELL,
11 WHAT COURSE OF ACTION DID YOU DECIDE TO TAKE IN
12 REGARD TO YOUR INVESTMENT WITH MR. HU?

13 A. I DON'T RECALL THE EXACT TIME BUT AFTER THAT I
14 BEGAN TO REQUEST TO WITHDRAW OR REDEMPTION.

15 Q. MR. LIN, I'M GOING TO SHOW YOU ANOTHER
16 DOCUMENT NOW IT'S PREVIOUSLY MARKED AS GOVERNMENT'S
17 EXHIBIT 36.

18 DO YOU RECOGNIZE THAT DOCUMENT

19 A. YES, THIS WAS A WITHDRAWAL FORM.

20 Q. AND HOW DO YOU RECOGNIZE THIS DOCUMENT?

21 A. YEAH. THIS DOCUMENT DIDN'T COME EASY BECAUSE
22 PRIOR TO THIS --

23 Q. WAIT A MINUTE, WE ARE GETTING A LITTLE BIT
24 AHEAD OF OURSELVES MR. LIN. BEFORE WE GET TO THAT,
25 BUT IN TERMS OF THIS DOCUMENT, HOW DID YOU COME TO

1 HAVE THIS DOCUMENT?

2 A. THIS DOCUMENT WAS PROVIDED BY ME TO ME, WAS
3 PROVIDED TO ME BY MR. ALBERT HU.

4 MR. LUCEY: YOUR HONOR, AT THIS POINT THE
5 GOVERNMENT WOULD MOVE EXHIBIT 36 INTO EVIDENCE.

6 MR. FONG: NO OBJECTION.

7 THE COURT: ALL RIGHT. 36 IS RECEIVED.

8 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 36 HAVING
9 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
10 ADMITTED INTO EVIDENCE.)

11 BY MR. LUCEY:

12 Q. SO MR. LIN, YOU WERE TELLING US THERE'S A
13 STORY ASSOCIATED WITH THIS DOCUMENT AND I WOULD ASK
14 MS. BURNEY TO PUBLISH IT TO THE COURT AND JURY. IF
15 YOU COULD BLOW UP THE TEXT.

16 WHAT'S THE STORY BEHIND THIS DOCUMENT,
17 MR. LIN?

18 A. BEFORE THIS WITHDRAWAL FORM CAME ABOUT OVER
19 THE PERIOD OF SEVERAL MONTHS I HAVE CALLED AND
20 WRITTEN E-MAIL, I COMMUNICATED WITH MR. HU
21 REQUESTING REDEMPTION. AND BECAUSE THE PERFORMANCE
22 WAS THERE AND I HAVE GOOD GAIN SO IT WAS TIME FOR
23 ME TO REDEEM. PLUS, I FELT THAT THERE WAS NOT
24 SUFFICIENT TRANSPARENCY AS I SAID EARLIER SO I
25 REQUEST --

1 Q. LET ME ASK YOU A QUESTION THERE MR. LIN. WHAT
2 DO YOU MEAN BY IT WAS TIME TO REDEEM; WHAT DO YOU
3 MEAN BY THAT?

4 A. WELL, I DEPOSITED \$1 MILLION AND THE LAST
5 STATEMENT SHOWING 1.7 MILLION. SO TO ME THAT'S A
6 GOOD ENOUGH, AND IN FACT IT'S VERY OUTSTANDING
7 PERFORMANCE AND AT THAT TIME I WANT TO PURCHASE
8 ANOTHER HOUSE BECAUSE MY MOTHER IS IN TAIWAN, SHE'S
9 89. AT THAT TIME SHE'S 80-SOMETHING AND I WANT HER
10 TO HAVE A NICER HOME AND I'M THINKING USING THOSE
11 FUNDS TO -- AND IT WOULD ALSO SERVE AS MY RETIRE
12 HOME EVENTUALLY. SO I WANTED THE FUND.

13 Q. SO YOU WANTED TO CASH OUT?

14 A. YES.

15 Q. OKAY. SO WHAT HAPPENED NEXT YOU MADE THE
16 DECISIONS BASED ON BOTH THE LACK OF TRANSPARENCY
17 THAT WAS CAUSING YOU CONCERN AND SINCE YOUR RETURN
18 HAD BEEN SO GOOD YOU WANTED TO TAKE THAT MONEY OUT?

19 A. YES. SO I COMMUNICATED WITH MR. HU AND
20 COMMUNICATED BY WISH TO REDEEM.

21 Q. SO DID HE PROVIDE YOU WITH THE WITHDRAWAL?

22 A. NO, NO. INITIALLY HE SAID THERE WERE VARIOUS
23 REASONS. FIRST FEW TIMES WAS IT WOULD TAKE TIME TO
24 LIQUIDATE THE POSITIONS, MEANING HE HAS ALL THE
25 MONEY IN THE STOCKS THAT HE PLAYED. AND IT WILL

1 TAKE TIME.

2 Q. JUST SO WE ARE CLEAR THAT'S YOUR
3 INTERPRETATION OF WHAT HE MEANT BY LIQUIDATION
4 ISSUES?

5 A. RIGHT. MEANING IT WOULD TAKE TIME FOR HIM TO
6 TURN IT INTO CASH TO RETURN TO ME.

7 Q. OKAY.

8 A. LATER HE GAVE ME DIFFERENT REASONS SAYING --

9 Q. WHAT DID HE SAY THE NEXT TIME?

10 A. YES, I CONTINUED TO REQUEST BECAUSE I LIKE THE
11 GUY I LIKED MR. HU SO INITIALLY HE WAS QUITE
12 FRIENDLY. THEN HE EXPLAINED TO ME BECAUSE MANY
13 OTHER CLIENTS WERE STILL STAYING IN THE FUND, IF
14 JUST ME REDEEM EVERYTHING, THEN IT'S GOING TO HURT
15 OTHER PEOPLE BECAUSE LIKE IF YOU SELL RAPIDLY IT
16 WILL HURT THE POSITION HURT THE PRICE. THESE ARE
17 AMONG THE REASONS THAT HE GAVE ME.

18 Q. AFTER HE GAVE YOU THOSE REASONS DID MR. HU
19 THEN GIVE YOU THE WITHDRAWAL FORM OR DID SOMETHING
20 ELSE HAPPEN AFTER THAT?

21 A. EVENTUALLY I GOT UPSET AND I TOLD HIM THAT I
22 NEED TO TAKE THE DUE COURSE ACTION INCLUDING LEGAL
23 ACTION TO PRESS HIM FOR I REDEEM MY FUND.

24 Q. WAS IT AT THAT POINT YOU WERE PROVIDED WITH
25 THE WITHDRAWAL FORM?

1 A. YEAH. THEN HE INVITED ME, IN FACT IT WAS DONE
2 IN A RESTAURANT IN CUPERTINO.

3 Q. DO YOU RECALL WHAT KIND OF RESTAURANT IT WAS?

4 A. IT WAS A JAPANESE RESTAURANT.

5 Q. AND MR. LIN, CAN YOU GIVE US AN ESTIMATE ABOUT
6 HOW LONG IT TOOK BETWEEN THE TIME YOU FIRST RAISED
7 THE ISSUE OF WITHDRAWING YOUR FUNDS AND THE TIME
8 YOU FINALLY HAD THIS MEETING AT THE RESTAURANT IN
9 CUPERTINO?

10 A. I DON'T RECALL EXACT TIME BUT IT'S SEVERAL
11 MONTHS, SEVERAL MONTHS. NUMEROUS EXCHANGES.

12 Q. SO THIS -- DID MR. HU BRING THIS WITHDRAWAL
13 FORM EXHIBIT 36 TO THE MEETING AT THE RESTAURANT?

14 A. YES.

15 Q. AND IT WAS ALREADY COMPLETE WHEN HE PRESENTED
16 IT TO YOU?

17 A. I BELIEVE SO, YES.

18 Q. BUT YOU HAD TO SIGN IT OBVIOUSLY?

19 A. YES.

20 Q. IS THAT YOUR SIGNATURE THERE BELOW CLOSING?

21 A. YES.

22 Q. IS THAT YOUR WRITING ON THE DATE LINE ABOVE
23 YOUR NAME?

24 A. YES.

25 Q. HOW ABOUT THE SIGNATURES BELOW?

1 A. SIGNATURE BELOW CAME TO ME HE BROUGHT IT TO
2 ME.

3 Q. SO IT WAS ALREADY SIGNED?

4 A. UH-HUH.

5 Q. AND DID IT ALSO CONTAIN THE SIGNATURE WE SEE
6 HERE TONY POLLACE?

7 A. YES THE BOTTOM ONE ANTHONY POL LUCK.

8 Q. AND WAS MR. POLLACE AT THIS MEETING?

9 A. NO.

10 Q. JUST YOU AND MR. HU?

11 A. YES.

12 Q. AND TURNING YOUR ATTENTION TO ONE PART OF THE
13 DOCUMENT. YOU RECALL EARLIER WE HAD BEEN LOOKING
14 AT A REFERENCE TO ANTHONY AND TONY. AND ALL THE
15 PRIOR ACCOUNT DOCUMENTS STATEMENTS HAVE SAID
16 ANTHONY POLLACE. NOW IT SAYS ANTHONY POLLACE
17 ENDING IN CE RATHER THAN CK. DID YOU NOTICE THAT
18 AT THE TIME?

19 A. NO, I DIDN'T.

20 Q. AFTER THE WITHDRAWAL FORM WERE YOU PROVIDED
21 WITH THE \$1.7 MILLION?

22 A. NO.

23 Q. HOW MUCH WERE YOU PROVIDED WITH?

24 A. ZERO.

25 Q. YOU NEVER RECEIVED ANY MONEY BACK AFTER

1 FILLING OUT THIS WITHDRAWAL FORM?

2 A. NO.

3 Q. DID YOU FOLLOW UP WITH MR. HU TO MAKE SURE
4 THAT HE HAD THE WITHDRAWAL FORM AND HADN'T
5 MISPLACED IT?

6 A. YES.

7 Q. HOW LONG AFTER THIS DID YOUR COMMUNICATION
8 CONTINUE AFTER NOVEMBER 26, 2007?

9 A. QUITE A FEW MONTHS. I WOULD CALL HIM. HE'S
10 IN U.S. OR HE'S IN HONG KONG SO HE HAS SEVERAL
11 NUMBERS, PHONE NUMBER IN TAIWAN, PHONE NUMBER IN
12 HONG KONG, SO I HAD TO TRY ALL THE NUMBERS.

13 MOST THE TIME I DID NOT KNOW WHERE HE WAS
14 AT THAT TIME.

15 Q. AND JUST SO WE ARE CLEAR AGAIN, JUST ONE POINT
16 I NEGLECTED TO ASK YOU EARLIER MR. LIN, THE DATE ON
17 THIS WITHDRAWAL FORM EXHIBIT 36, NOVEMBER 262007,
18 IS THAT THE DATE ON THIS WHICH MEETING OCCURRED TO
19 THE BEST OF YOUR RECOLLECTION?

20 A. YES, TO MY BEST RECOLLECTION.

21 Q. OKAY. AND SO HOW MANY INTERACTIONS DO YOU
22 HAVE WITH MR. HU OTHER THAN YOUR FAILED EFFORTS TO
23 CONTACT HIM AFTER NOVEMBER 26, 2007 IN AN ATTEMPT
24 TO RETRIEVE YOUR MONEY?

25 A. QUITE A FEW TIMES BUT MOSTLY BY PHONE OR BY

1 E-MAIL. AND EVENTUALLY HE DID REPLY -- INITIALLY,
2 HE DID NOT REPLY BECAUSE MY E-MAIL GOT MORE AND
3 MORE HEATED.

4 Q. NOW FROM THIS, YOU KNOW, WHEN YOU FIRST BEGAN
5 ASKING FOR YOUR MONEY BACK SOME TIME PRIOR TO
6 NOVEMBER 26, 2007 LOOKING TO CASH OUT YOUR
7 INVESTMENT YOU MADE WITH MR. HU AND RETRIEVE YOUR
8 GAINS ACCORDING TO HIS QUARTERLY STATEMENTS TO YOU,
9 MR. LIN, AND IN THE WEEKS AND MONTHS THAT FOLLOWED,
10 DID MR. HU EVER TELL YOU YOUR MONEY WAS GONE?

11 A. NO.

12 Q. WHAT IMPRESSION DID YOU HAVE BASED ON YOUR
13 INTERACTIONS WITH HIM?

14 A. IT WAS STILL DOING VERY WELL.

15 Q. THAT IT WAS STILL THERE?

16 A. STILL THERE STILL DOING VERY WELL.

17 Q. IT WAS STILL BEING HELD IN AN ACCOUNT FOR YOUR
18 BENEFIT?

19 A. YES.

20 Q. DID MR. HU EVER TELL YOU THAT HE USED A
21 PORTION OF YOUR INVESTMENT MONEY TO PAY OTHER
22 INVESTORS IN THE FUND?

23 A. NO, HE HAS NEVER TOLD ME THAT.

24 Q. IF YOU KNEW THAT THAT WAS HOW SOME OF YOUR
25 MONEY WAS GOING TO BE INVESTED AND USED WOULD YOU

1 STILL HAVE INVESTED WITH MR. HU?

2 A. NO, I WOULD NOT.

3 Q. DID HE EVER, MR. HU EVER TELL YOU THAT HE WAS
4 GOING TO USE YOUR MONEYS TO FUND HIS OPERATIONS OF
5 HIS FUND BEYOND THE PERCENTAGES PROVIDED FOR IN THE
6 SUBSCRIPTION DOCUMENTS?

7 A. NO, HE NEVER TOLD ME THAT.

8 Q. IF YOU HAD KNOWN THAT WAS GOING TO HAPPEN WITH
9 YOUR INVESTMENT MONEY WOULD YOU STILL HAVE INVESTED
10 IN THE FIRESIDE FUND AND THE ASENQUA BETA FUND?

11 A. NO, I WOULD NOT.

12 Q. AND MR. LIN, DID MR. HU EVER TELL YOU THAT HE
13 USED YOUR INVESTMENT MONEYS THE \$1 MILLION YOU
14 PROVIDED HIM WITH TO FUND HIS LIVING EXPENSES AND
15 PERSONNEL EXPENSES?

16 A. THE AGREEMENT CALLS FOR MANAGEMENT FEE, ONLY
17 WITHIN THAT, THAT'S HIS DISCRETION. OTHER THAN THE
18 MANAGEMENT FEE, NO, HE HAS NEVER TOLD ME THAT.

19 Q. AND IF YOU HAD KNOWN HE WAS GOING TO USE YOUR
20 MONEYS BEYOND THE MANAGEMENT FEES PROVIDED FOR IN
21 THE INVESTMENT DOCUMENTS WOULD YOU HAVE STILL
22 INVESTED YOUR MONEY?

23 A. NO.

24 Q. AND FOR ALL THOSE QUESTIONS I JUST ASKED YOU
25 ABOUT USING MONEYS TO PAY OTHER INVESTORS AND TO

1 USE MONEYS, USE YOUR INVESTMENT MONEYS TO FUND THE
2 OPERATIONS OF ASENQUA AND FIRESIDE AND TO FUNDS AND
3 LIVING EXPENSES BEYOND THE MANAGEMENT FEES PROVIDED
4 IN THE INVESTMENT DOCUMENTS, YOU SAID NO TO ALL
5 THOSE QUESTIONS?

6 A. CORRECT.

7 Q. YOU WOULD NOT HAVE INVESTED?

8 A. CORRECT.

9 Q. WHY NOT?

10 A. BECAUSE IT WOULD NOT BE FAIR OOZE ME AS AN
11 INVESTOR.

12 Q. WHAT DO YOU MEAN FAIR?

13 A. MEANING IF I DEPOSITED \$1 MILLION, HE WAS
14 SUPPOSED TO USE THE \$1 MILLION TO MAKE THE BEST
15 EFFORT TO CREATE, TO HONESTLY INVEST IN THE MARKET.

16 Q. AND MR. LIN, WOULD YOU HAVE KEPT INVESTING IF
17 YOU HAD KNOWN THAT THOSE QUARTERLY STATEMENTS WE
18 LOOKED AT THIS MORNING BOTH FOR ASENQUA BETA FUND
19 THEN FOR FIRESIDE FUND. IF YOU HAD KNOWN THOSE
20 RETURNS WERE NOT TRUE AND ACCURATE WOULD YOU HAVE
21 KEPT INVESTING MONEY?

22 A. NO, I WOULD HAVE RUN AS FAST AS I COULD.

23 Q. WOULD YOU HAVE KEPT YOUR ORIGINAL VESTMENT
24 THERE TOO JUST NOT INVESTED NEW MONEY?

25 A. NO.

1 Q. YOU WOULD HAVE TAKEN ALL THE MONEY OUT AS SOON
2 AS HAD LEARNED THAT?

3 A. YES.

4 Q. WHY IS THAT?

5 A. BECAUSE THAT MEANS THAT THE IF THE STATEMENTS
6 WERE FALSE THEN THE WHOLE, THE ENTIRE FUND WAS SOME
7 KIND OF A SCHEME.

8 MR. LUCEY: JUST A MOMENT, YOUR HONOR,
9 I'M GOING TO CONFER WITH MY COUNSEL.

10 THE COURT: OKAY.

11 MR. LUCEY: NO FURTHER QUESTIONS,
12 YOUR HONOR.

13 THE COURT: ALL RIGHT. MR. FONG?

14 DO YOU NEED A BREAK?

15 THE WITNESS: NO, I'M FINE, JUST -- IT'S
16 TIME. I'M SORRY.

17

18 **CROSS-EXAMINATION BY MR. FONG**

19

20 BY MR. FONG:

21 Q. GOOD MORNING, MR. LIN. MY NAME IS JERRY FONG
22 AND I REPRESENT ALBERT HU.

23 I JUST WANTED TO ASK YOU SOME QUESTIONS,
24 IF I MAY.

25 NOW MR. LIN, FOR THE LAST 25 YEARS YOUR

1 OCCUPATION HAS BEEN INVESTING IN STARTUP COMPANIES;
2 IS THAT CORRECT?

3 A. STARTING 2000 UNTIL NOW, AS A PROFESSION
4 STARTING 2000 AS ANGEL STARTING MID-90'S.

5 Q. SO THAT WOULD BE ABOUT 15, 20 YEARS?

6 A. ONLY AS ENTREPRENEUR STARTUP.

7 Q. NOW YOU ALSO HAVE EXTENSIVE EXPERIENCE IN
8 TERMS OF LECTURING TO PEOPLE ABOUT ANGEL INVESTING
9 OR VENTURE CAPITAL INVESTING; IS THAT CORRECT?

10 A. I WOULD NOT SELF INFLATE TO SAY LECTURE. I
11 SHARE WITH MY EXPERIENCE BOTH IN LOSING AND
12 SUCCESS, AND FAILURE.

13 Q. BUT YOU HAVE SPOKEN AS A FEATURED SPEAKER AT
14 SEMINARS AND TALKS, RIGHT?

15 A. ON VENTURE INVESTMENT, YES.

16 Q. AND YOU ALSO WROTE VARIOUS COLUMNS FOR TWO
17 TAIWAN NEWSPAPERS; IS THAT CORRECT?

18 A. CORRECT.

19 Q. OKAY. WHAT ARE THE NAMES OF THESE TWO
20 NEWSPAPERS?

21 A. ONE IS ECONOMICAL DAILY NEWS. THE OTHER IS
22 COMMERCIAL TIME.

23 Q. WOULD IT BE FAIR TO SAY THAT THESE ARE THE
24 CHIEF FINANCIAL NEWSPAPERS FOR TAIWAN?

25 A. YES.

1 Q. THEY ARE KIND OF, IF YOU WILL, THE EQUIVALENT
2 OF THE TAIWAN VERSION OF *THE WALL STREET JOURNAL*,
3 IS THAT A FAIR STATEMENT?

4 A. I CANNOT ANSWER THAT.

5 Q. BUT THEY ARE THE TWO MAJOR NEWSPAPERS IN WHICH
6 PEOPLE OF TAIWAN GET THEIR FINANCIAL NEWS, IS THAT
7 YOUR UNDERSTANDING?

8 A. THERE ARE OTHER, BUT THESE ARE TWO OF THE
9 MANY.

10 Q. I'M SORRY I APOLOGIZE I INTERRUPTED YOU.
11 PLEASE FINISH?

12 A. THESE ARE TWO OF THE MANY OTHER THINGS.

13 Q. BUT THESE ARE THE TWO MAJOR NEWSPAPERS
14 ACCORDING TO YOUR UNDERSTANDING; IS THAT CORRECT?

15 A. YES.

16 Q. OKAY. AND YOU WROTE COLUMNS FOR THEM?

17 A. STARTING 2003, ONLY FOR ECONOMICAL DAILY NEWS
18 AND STARTING 2005 I THINK FOR COMMERCIAL TIME OR
19 SOMEWHERE AROUND THAT TIME, YEAH.

20 Q. OKAY. AND THESE ARE COLUMNS ABOUT HOW TO
21 INVEST AND FINANCES, RIGHT?

22 A. NO. HOW TO INVEST, HOW TO FINANCE IS JUST ONE
23 PART OF IT. I HAVE FOUR CATEGORIES THAT I DEVOTE
24 MY LIFE TO. ONE IS TEACH PEOPLE HOW TO BE HAPPY,
25 MOTIVATIONAL TALK. I WROTE A LOT MORE ON THAT.

1 AND THEN HOW TO BUILD AND RETAIN POSITIVE
2 THINKING. AND THEN HOW TO START UP WHICH IS REALLY
3 MY MAIN FOCUS. SO TO ENCOURAGE ENTREPRENEUR WITH
4 DREAMS TO PURSUE THEIR DREAM.

5 THEN ALONG THE WAY THERE'S SOME
6 INVESTMENTS. AGAIN, I'M NOT EXPERT IN MARKET
7 INVESTMENT BUT ONLY INVESTMENT FOCUS IN VENTURE
8 STARTUP.

9 Q. MR. LIN, AT ONE POINT IS IT TRUE YOU WROTE A
10 COLUMN ABOUT HEDGE FUND INVESTMENT FOR ONE OF THOSE
11 TWO NEWSPAPERS YOU MENTIONED, I FORGET IT IF IT WAS
12 TAIWAN DAILY NEWS OR ECONOMIC TIMES?

13 A. IT'S FINE.

14 I WROTE THREE COLUMNS IN SEQUENCE. FIRST
15 ABOUT VENTURE FUND. I HAVE MORE EXPERIENCE IN
16 THAT.

17 TWO IS ON PRIVATE EQUITY. BASICALLY JUST
18 EXPLAIN WHAT IT IS.

19 AND THE THIRD ONE IS ON HEDGE FUND
20 BECAUSE I LEARNED OVER THE PAST FEW MONTHS DURING
21 THAT TIME BY READING A LOT OF BOOKS ON HEDGE FUND.

22 Q. OKAY. SO YOU FELT COMFORTABLE TO WRITE A
23 COLUMN IN ONE OF THE LEADING FINANCIAL NEWSPAPERS
24 IN TAIWAN ON THE ISSUE OF HEDGE FUNDS; IS THAT
25 CORRECT?

1 A. THE CONTENT OF THAT SPECIFIC COLUMN EXPLAINS
2 WHAT HEDGE FUND IS WHICH PROBABLY YOU CAN ALSO
3 WRITE AFTER READING AND SUMMARIZING.

4 Q. YOU OBVIOUSLY HAVE NEVER SEEN MY WRITING. BUT
5 LEAVING THAT ASIDE, BUT YOU WROTE THE COLUMN FOR A
6 MAJOR, ONE OF THE TWO MAJOR FINANCIAL NEWSPAPERS IN
7 TAIWAN.

8 A. YES, UH-HUH.

9 Q. ON THE SUBJECT OF WHAT IS A HEDGE FUND?

10 A. YES.

11 Q. IN FACT YOUR COLUMN WENT BEYOND DESCRIBING
12 WHAT IS A HEDGE FUND; IS THAT TRUE?

13 A. I DON'T RECALL THE EXACT DATA BUT THE DOCUMENT
14 IS THERE. I HAVE A WEBSITE WHICH HAS ALL MY
15 ARTICLES ALSO. ANYBODY CAN READ.

16 Q. AND THAT WEBSITE IS IN CHINESE, CORRECT?

17 A. CORRECT.

18 Q. NOW IN THAT ARTICLE YOU MENTIONED ABOUT THE
19 HEDGE FUND YOU ALSO TALKED ABOUT SORT OF, IF YOU
20 WILL, HOW A HEDGE FUND CAN BE A VERY GOOD
21 INVESTMENT VEHICLE; IS THAT CORRECT?

22 A. HEDGE FUND CAN BE A VERY GOOD VEHICLE, YES, IT
23 CAN BE.

24 Q. OKAY. AND YOU WERE GIVING ADVICE ON THAT,
25 RIGHT?

1 A. I WROTE AN ARTICLE, YES.

2 Q. OKAY. WITH ADVICE?

3 A. I DO NOT KNOW WHAT YOU MEAN.

4 Q. OKAY. LET ME WITHDRAW THAT QUESTION. LET ME
5 TRY THIS. NOW, IN THAT ARTICLE YOU MENTIONED THAT
6 THERE WAS, IF YOU WILL, A SYNERGY BETWEEN VENTURE
7 CAPITAL VENTURE CAPITAL FUNDS AND HEDGE FUNDS; IS
8 THAT CORRECT?

9 A. OKAY. THE COLUMN OR SEQUENCE OF THREE, FIRST
10 ONE WAS ON VENTURE CAPITAL BECAUSE IT'S BEFORE
11 PUBLIC. THE SECOND ONE WAS ON PRIVATE EQUITY FUND
12 THAT'S WHEN THE COMPANY GROW. THE THIRD ONE IS
13 HEDGE FUND AFTER IT WENT PUBLIC BECOME A PUBLIC
14 LISTING COMPANY. THESE NATURALLY HAVE THEIR
15 SYNERGY.

16 Q. AND THESE TALK ABOUT COMBINED INVESTING IN THE
17 COMPANIES FROM THE VERY BEGINNING STARTUP UNTIL
18 THEY ARE ACTUALLY TAKEN PUBLIC, RIGHT?

19 A. IDEALLY, YES.

20 Q. IN THAT ARTICLE YOU MENTIONED THAT A TYPICAL
21 HEDGE FUND MANAGER OR A TYPICAL HEDGE FUND MANAGER
22 WOULD ONLY DO CERTAIN THINGS THAT YOU THOUGHT WERE
23 GOOD THINGS BUT NOT ENOUGH; IS THAT CORRECT?

24 A. CAN YOU BE MORE CLEAR? I DON'T UNDERSTAND
25 THAT.

1 Q. SURE. IN YOUR ARTICLE DID YOU MENTION THAT A
2 TYPICAL HEDGE FUND MANAGER WOULD DO CERTAIN TYPES
3 OF DUE DILIGENCE BEFORE HE OR SHE WOULD MAKE AN
4 INVESTMENT INTO A PARTICULAR STOCK?

5 A. YEAH. TYPICAL HEDGE FUND MANAGER, YES. THEY
6 WILL STUDY AND UNDERSTAND THE COMPANY BEFORE THEY
7 DECIDE TO PURCHASE AND SELL, OR SELL.

8 Q. AND YOUR ARTICLE TALKED ABOUT THE FACT THAT IN
9 YOUR OPINION THAT WAS NOT GOOD ENOUGH; IS THAT
10 CORRECT?

11 A. SOMETIMES IT CAN BE NOT GOOD ENOUGH. YOU CAN
12 STUDY FACEBOOK BUT THE MARKET WILL REACT VERY
13 STRANGELY.

14 Q. IN FACT, IN YOUR ARTICLE YOU WERE TALKING
15 ABOUT THE FACT THAT FROM YOUR PERSPECTIVE THE
16 BETTER WAY TO DO IT IS TO INTEGRATE THE KNOWLEDGE
17 ABOUT VENTURE CAPITAL INTO YOUR HEDGE FUND
18 MANAGEMENT SO THAT YOU CAN SEE WHETHER OR NOT THE
19 ONE PART WOULD PROVIDE INFORMATION THAT WOULD HELP
20 YOU IN TERMS OF INVESTING IN THE OTHER PART; IS
21 THAT CORRECT?

22 A. NOT IN DEGRADING THE FUNDS. BUT IN DEGRADING
23 THE CAPABILITY.

24 IN VENTURE FUND, WHAT I SPEND MY LIFE
25 DOING IS I STUDY A STARTUP DREAM PROPOSAL. THEN WE

1 ANALYZE THE START UP, WHETHER IT'S POSSIBLE OR
2 FEASIBLE, IS IT GOOD, IS THE MANAGEMENT TEAM GOOD,
3 OR THOSE ARE THE VENTURE FUND.

4 AND MY COMMENT, IF I RECALL CORRECTLY,
5 WAS DISCIPLINE CAN BE APPLIED AS A BENEFIT TO A
6 HEDGE FUND.

7 Q. AND THAT'S WHERE YOU WERE TALKING ABOUT KIND
8 OF INTEGRATING THE KNOWLEDGE FROM ONE TO THE OTHER;
9 IS THAT CORRECT?

10 A. KNOWLEDGE, YES.

11 Q. AND THAT'S FROM YOUR PERSPECTIVE THAT'S WHAT
12 ASENQUA WAS DOING, RIGHT? I DON'T MEAN JUST THE
13 ASENQUA BETA FUND BUT THE ASENQUA FAMILY TREE, IF
14 YOU WILL?

15 A. I DON'T KNOW IF THERE'S A FAMILY TREE. MR. HU
16 HAS INVITED ME TO HELP HIM START A FUND CALLED
17 ASENQUA VENTURE FUND WHICH MY UNDERSTANDING WAS
18 REALLY JUST A SORT OF CO-INVEST TYPE OF IDEA.

19 Q. NOW YOU -- BUT YOU DO UNDERSTAND THAT FROM IN
20 TERMS OF YOUR PROFESSION YOU DO UNDERSTAND THE NEED
21 TO BE VERY CAREFUL BEFORE MAKING A PARTICULAR
22 INVESTMENT DECISION; IS THAT CORRECT?

23 A. YES, THE MOST CAREFUL PERSON WITH THE LEADERS.

24 Q. AND YOU HAVE HAD OF COURSE A LOT OF SUCCESS IN
25 TERMS OF INVESTING IN STARTUP COMPANIES; IS THAT

1 CORRECT?

2 A. I HAVE SOME SUCCESSES BUT I HAVE EQUALLY MANY
3 FAILURES, YES. IT'S ALL PART OF IT.

4 Q. AND WHAT YOU DO TRY TO DO WHEN YOU GIVE TALKS
5 IS TO IMPART YOUR EXPERIENCE TO OTHERS, RIGHT?

6 A. YES.

7 Q. AND YOU ALSO TRY TO LET THEM KNOW, IF YOU
8 WILL, THE PITFALLS OR HOW NOT TO DO THINGS THAT
9 WOULD BE HURTFUL, RIGHT?

10 A. YES, VERY HURTFUL.

11 Q. AND ONE OF THOSE THINGS IS NOT CONDUCTING
12 WHAT -- WELL, DO YOU UNDERSTAND THE TERM "DUE
13 DILIGENCE"?

14 A. YES.

15 Q. AND WHAT IS YOUR UNDERSTANDING OF THE TERM DUE
16 DILIGENCE AS IT APPLIES TO WHAT YOU DO IN TERMS OF
17 ASSESSING WHETHER OR NOT TO MAKE AN INVESTMENT IN A
18 PARTICULAR COMPANY?

19 A. I, INCLUDING MEETING AND UNDERSTANDING WHAT
20 THEY TRY TO DO. MY LINE OF WORK DUE DILIGENCE
21 MOSTLY ARE BASED ON DREAMS.

22 REMEMBER, MY 20 YEARS OF INVESTMENT AS AN
23 ANGEL IN THE VENTURE FUND ARE PEOPLE LIKE
24 ZUCKERBERG OF A FEW YEARS BACK, GOOGLE A FEW YEARS
25 BACK, THEY ONLY HAVE A DREAM.

1 SO WHEN WE DO DUE DILIGENCE WE REVIEW
2 THEIR BUSINESS PLAN THEY REVIEW THESE PEOPLE WE
3 REVIEW THEIR CAPE ABILITY. THOSE ARE MY KIND OF
4 DUE DILIGENCE.

5 Q. IS IT FAIR TO SAY WHEN YOU DO YOUR DUE
6 DILIGENCE, WHATEVER COMPANY WHO WANTS YOU TO INVEST
7 IN THAT COMPANY WHATEVER INFORMATION THEY GIVE YOU,
8 YOU WANT TO MAKE SURE THAT IS ACCURATE AND
9 TRUTHFUL; IS THAT CORRECT?

10 A. YOU CANNOT BE ACCURATE FOR A START UP DREAM.
11 YOU CAN ONLY TO YOUR BEST IN UNDERSTANDING THE
12 MARKET -- IN FACT, MY SECOND BOOK IF YOU ALSO HAVE
13 READ WHICH WON THE NATIONAL AWARD TALKS ABOUT HOW
14 TO HELP A START UP. IN FACT, I EMPHASIZE TWO
15 THINGS. YOU CAN ONLY UNDERSTAND WHAT THE DREAM
16 MARKET IS AND WHAT THE CAPABILITY IS
17 TRUSTWORTHINESS OF THE STARTUP FOUNDER.

18 Q. OKAY. BUT IF SOMEBODY IF A STARTUP COMPANY
19 PROVIDED YOU WITH CERTAIN INFORMATION ABOUT THE
20 COMPANY YOU WOULD WANT TO CHECK THAT OUT BEFORE YOU
21 MAKE A DECISION TO INVEST OR NOT TO INVEST; IS THAT
22 CORRECT?

23 A. CHECK WHAT OUT.

24 Q. CHECK OUT INFORMATION YOU DEEM TO BE IMPORTANT
25 BEFORE MAKING A DECISION TO INVEST IN THE COMPANY?

1 A. FOR A STARTUP ALL, I CAN CHECK IS TO VERIFY
2 THE MARKET AND YOU CAN ONLY READ THE MARKET. THEN
3 THE PEOPLE. BECAUSE NOTHING ELSE HAS HAPPENED
4 THESE ARE STARTUPS THAT I SPEND MY LIFE READING.

5 Q. YOU HAVE, BUT IN TERMS OF YOUR VERSION OF WHAT
6 IS DUE DILIGENCE YOU DO CONSIDER CHECKING
7 STATEMENTS OR REPRESENTATIONS MADE BY THE COMPANY
8 THAT YOU ARE INVESTIGATING, YOU WANT TO MAKE SURE
9 THOSE ARE TRUTHFUL AND ACCURATE; IS THAT CORRECT?

10 A. IF I MAY, I DO NOT WISH TO BE UNDER VALUED
11 WITH MY WORK. MY PASSION IS HELPING ENTREPRENEUR
12 IN THEIR STARTUP. SO I ALWAYS APPROACH A YOUNG
13 PERSON OR YOUNG TEAM WHO APPROACH ME. I ALWAYS
14 APPROACH THEM WITH SYMPATHY AND APPRECIATION IT'S
15 THE BETTER WAY TO LIVE A LIFE.

16 SO WHEN THESE YOUNG FOLKS COME IN CAME TO
17 ME WITH THEIR DREAM. THE MAJORITY OF THEM IS THEIR
18 PLAN, THAT'S WHY IT'S CALLED BUSINESS PLAN. AND
19 YOU CAN ONLY VERIFY THESE PEOPLE'S CAPABILITY AND
20 YOU READ THE MARKET.

21 IF FIVE YEARS AGO, TEN YEARS AGO PEOPLE
22 ASK YOU TO STUDY GOOGLE. TEN YEARS AGO PEOPLE ASK
23 YOU TO REVIEW FACEBOOK OR SOCIAL NETWORK YOU HAVE
24 NO IDEA SOCIAL NETWORK WOULD BE THIS BIG. THAT'S
25 MY LINE OF BUSINESS.

1 SO MY TIME IS SPENT DEVOTED TO THE
2 CONTENT OF THE THEIR IDEAS. AND THE PEOPLE, THAT'S
3 WHAT I DO.

4 Q. NOW, BUT IF THEY -- IF THE COMPANY IS MAKING A
5 REPRESENTATION, SO FOR EXAMPLE IT'S TAKE FACE BOOK.
6 FACEBOOK BEFORE IT BECAME AS BIG AS IT IS NOW, IF
7 FACEBOOK WAS TELLING YOU INVEST IN US WE HAVE
8 500,000 USERS IN THE BAY AREA, THAT NUMBER OF USERS
9 WOULD BE AN IMPORTANT FACTOR IN DETERMINING WHETHER
10 OR NOT TO INVEST OR NOT INVEST IN FACEBOOK; IS THAT
11 CORRECT?

12 A. YES.

13 Q. AND YOU WOULD WANT TO MAKE SURE THAT NUMBER IS
14 ACCURATE AND TRUTHFUL; IS THAT CORRECT?

15 A. IN REALITY, THESE ARE ACTUAL CASES. REMEMBER
16 THE DOT COM BUBBLE. THE DOT COM BUBBLE WERE
17 FIGHTING INVESTORS TO GET THE DOT COM DEALS. THEY
18 WERE ALL WRONG AND I WAS STUPID ENOUGH TO HAVE MADE
19 THE SIMILAR MISTAKES AS WELL.

20 THERE ARE TIMES YOU RECEIVE AN OFFER AN
21 ENTREPRENEUR WILL TELL YOU HEY EITHER IT'S CALLED
22 COME TO PLAY. COME AND JOIN. AND YES, THEY GIVE
23 YOU SOME DOCUMENT THAT THERE'S ALWAYS TIME.

24 SO MOST CASES WE TRY TO DO DUE DILIGENCE
25 THE BEST OF OUR ABILITY. BUT A LOT OF TIMES WE

1 CANNOT BECAUSE OF COMPETITION. IT'S NOT LIKE I SIT
2 HERE I CAN PICK AND CHOOSE I SAY YOU ARE NO GOOD,
3 YOU ARE NO GOOD. I'M JUST A VERY SMALL INVESTOR.

4 Q. SO WHAT YOU ARE SAYING IF I HEARD YOU
5 CORRECTLY IS THAT WHAT YOU WANT TO DO IS TO WEIGH
6 THE HOW CAREFUL YOU ARE WITH THE RISK, THAT IS TO
7 SAY WITH THE POSSIBLE REWARD.

8 IF IT'S A VERY, VERY, VERY HIGH REWARD
9 YOU'RE WILLING TO TAKE A LOT MORE RISK; IS THAT
10 CORRECT?

11 A. YEAH, THAT'S WHAT VENTURE INVESTMENT IS, YES.

12 Q. SO THAT IF YOU FEEL FOR EXAMPLE LIKE WITH
13 FACEBOOK IF YOU FEEL THERE ARE SEVERAL THOUSAND
14 OTHER VENTURE CAPITAL COMPANIES WANTING TO INVEST
15 IN THAT YOU MIGHT NOT CARE AS MUCH ABOUT WHETHER OR
16 NOT THE NUMBERS THAT YOU ARE GETTING FROM FACEBOOK
17 WERE ACCURATE. YOU MIGHT WANT TO JUST SIMPLY BEAT
18 YOUR COMPETITION IN TERMS OF BEING FIRST THROUGH
19 THE DOOR?

20 A. I BEG TO DIFFER. WE ARE TALKING ABOUT REAL
21 INVESTMENT, WE ARE NOT DEALING WITH A SWINDLING
22 THEM.

23 Q. I'M TALKING ABOUT WHAT YOU DO IN TERMS OF DUE
24 DILIGENCE, THAT'S ALL I'M TALKING ABOUT.

25 A. WHEN I HAVE BEEN GIVEN GOOD OPPORTUNITIES SO

1 FAR, I HAVE BEEN CORRECT AS YOU ALLUDED TO. SO FAR
2 I HAVE BEEN FORTUNATE ENOUGH TO HAVE SOME CORRECT
3 INVESTMENT. AT THE SAME TIME I HAVE A LOST FAILURE
4 AS WELL ALL BASICALLY ALONG THAT LINE, YES.

5 Q. OKAY. BUT IT IS A RISK AND REWARD KIND OF
6 BALANCING; IS THAT CORRECT?

7 A. RISK AND REWARD, YES.

8 Q. AT THE TIME YOU INVESTED WITH THE ASENQUA BETA
9 FUND, THERE WERE A LOT OF OTHER HEDGE FUNDS OUT
10 THERE IN 2004, 2005 PERIOD?

11 A. I THINK SO, YEAH.

12 Q. WELL, IN FACT YOU YOURSELF HAD INVESTED IN
13 HEDGE FUNDS BEFORE, RIGHT?

14 A. AROUND THE SAME TIME, YEAH.

15 Q. BUT YOU DID SOME SHOPPING AROUND BEFORE YOU
16 MADE YOUR INVESTMENT?

17 A. THAT'S A SPECULATION, NO, I DID NOT SHOP
18 AROUND. MR. HU APPROACHED ME.

19 Q. BUT YOU WERE AWARE THERE WERE OTHER HEDGE
20 FUNDS OUT THERE?

21 A. IT'S CALLED ALTERNATIVE, YES.

22 Q. SO YOU KNEW MR. HU DID NOT HAVE THE ONLY HEDGE
23 FUND IN THE UNITED STATES AT THAT TIME; IS THAT
24 CORRECT?

25 A. CORRECT.

1 THE COURT: IS THIS A GOOD TIME FOR A
2 BREAK?

3 MR. FONG: SURE.

4 THE COURT: IS THIS ALL RIGHT?

5 MR. FONG: SURE.

6 THE COURT: WE WILL BE IN RECESS FOR
7 15 MINUTES.

8 (WHEREUPON A RECESS WAS TAKEN.)

9 (WHEREUPON, THE FOLLOWING PROCEEDINGS
10 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

11 MR. LUCEY: YOUR HONOR, JUST BEFORE WE
12 CONTINUE WITH MR. FONG'S CROSS-EXAMINATION OF
13 MR. LIN OUTSIDE THE PRESENCE OF THE JURY, I WANTED
14 TO RAISE AN ISSUE, TWO ISSUES REALLY.

15 ONE IS THAT MR. FONG HAS SPENT A GOOD BIT
16 OF TIME ON HIS CROSS SO FAR TALKING ABOUT THE
17 VENTURE CAPITAL OF MR. LIN.

18 THERE WAS A BASIS TO ASK THE QUESTIONS,
19 BUT I THINK MR. LIN HAS NOW ANSWERED THEM IN A WAY
20 THAT I THINK FURTHER QUESTIONING ON THE TOPIC IS
21 PROBATIVE TO THE HEDGE FUND HE INVESTED IN. SO WE
22 RAISE THAT AS A CONCERN ON OUR PART.

23 MR. FAZIOLI: AND BASED ON OUR INITIAL
24 REVIEW OF THE DEFENDANT'S EXHIBITS IS THAT A LOT OF
25 THEM REFER TO VENTURE CAPITAL DEALS THAT MR. LIN

1 WAS INVOLVED IN WHICH MAKE IT APPEAR AS IF THE
2 FIRMS HE WAS WITH NETTED A GREAT DEAL OF MONEY, AT
3 LEAST WHAT WE CAN TELL FROM THE DOCUMENTS.

4 OUR CONCERN IS, AND THIS IS SOMEWHAT
5 RELATED TO THE MOTION IN LIMINE WE FILED REGARDING
6 REFERENCES TO THE NET WORTH OF THE VICTIMS, IS THAT
7 IF WE ARE HAVING DISCUSSIONS ABOUT THE VENTURE
8 CAPITAL WE VIEW IS SOMEWHAT DISTINCT FROM INVESTING
9 IN A HEDGE FUND, WHETHER THE ADDITIONAL QUESTIONING
10 OR DISCUSSIONS ABOUT PARTICULAR VENTURE CAPITAL
11 DEALS THAT THE DEFENDANT, THAT THIS VICTIM MR. LIN
12 WAS INVOLVED IN WOULD EFFECTIVELY SERVE AS A PROXY
13 FOR SIGNALLING TO THE JURY THAT HE IS A PERSON OF
14 HIGH NET WORTH WHICH COULD BE PREJUDICIAL IN TERMS
15 OF MAKING HIM SEEM SOMEWHAT UNSYMPATHETIC IF
16 SOMEONE FELT THAT WAY ON THE JURY, AND IT WOULDN'T
17 BE PARTICULARLY PROBATIVE IN TERMS OF HIS NET
18 WORTH.

19 MR. FAZIOLI: THE QUESTIONS MAY BE NOT
20 PROBATIVE TO THE NET WORTH AND IT MAY NOT BE
21 TERRIBLY PROBATIVE TO THE QUESTION OF NET WORTH.

22 THE COURT: I SORT OF GATHERED THE
23 CROSS-EXAMINATION TO BE DIRECTED PRIMARILY AT WHAT
24 ONE LOOKS AT WHEN ONE DECIDES TO MAKE AN
25 INVESTMENT. AND WHETHER IF THE COMPANY IN WHICH

1 YOU ARE TO MAKE AN INVESTMENT WHETHER IT BE A STOCK
2 OR STARTUP OR HEDGE FUND, DO YOU INVESTIGATE THE
3 FACTS SUPPORTING WHATEVER STATEMENT MAY HAVE BEEN
4 MADE TO YOU IN THE DOCUMENTS.

5 I WOULD AGREE THE AMOUNT OF MONEY MR. LIN
6 MADE OR DIDN'T MAKE REALLY ISN'T RELEVANT TO THAT
7 INQUIRY BUT THAT'S NOT WHAT I WAS THINKING THE
8 CROSS WAS SO FAR.

9 MR. FONG: YOUR HONOR, I HAVE NO
10 INTENTION OF ASKING MR. LIN ABOUT HIS NET WORTH.
11 BUT IN TERMS OF WHETHER OR NOT HE'S TESTIFIED THAT
12 HE'S HAD SUCCESS AND SOME FAILURES, I WANT TO
13 INQUIRE ABOUT SORT OF WHICH ONES WERE SUCCESSFUL,
14 YOU KNOW, TO GET TO FLESH OUT THE STORY. BUT I'M
15 NOT GOING TO ASK HIM HOW MUCH HE MADE.

16 THE COURT: WHAT'S THE POINTS YOU WANT TO
17 MAKE?

18 MR. FONG: MY POINT, YOUR HONOR, IS THAT
19 HE IS -- HE IS A VERY SUCCESSFUL AND REPUTABLE
20 INVESTMENT GURU. AND TO OBVIOUSLY, TO HIS SUCCESS,
21 NOT IN TERMS OF HOW MUCH HE EARNED BUT IN TERMS OF
22 HIM HAVING SUCCESSFULLY INVESTED IN A PARTICULAR
23 COMPANY IS RELEVANT IN TERMS OF HIS REPUTATION OF
24 WHAT HE HAS DONE.

25 THE COURT: I'M JUST NOT SURE WHERE --

1 WHAT YOU ARE GOING TO GO INTO BEYOND WHAT YOU HAVE
2 COVERED.

3 I MEAN, IF YOU ARE ASKING HIM DID HE LOOK
4 AT OR CHECK OUT THE ACCURACY OF CERTAIN
5 REPRESENTATIONS THAT WERE MADE TO HIM OR CERTAIN
6 STATEMENTS THAT WERE MADE IN LITERATURE PERTAINING
7 TO AN INVESTMENT HE MADE, THAT'S ONE THING. IF YOU
8 ARE ASKING HIM SOMETHING ELSE, THAT'S A DIFFERENT
9 QUESTION.

10 MR. FONG: WELL, YOUR HONOR, I THINK IT
11 HAS TO DO WITH WHAT IS MATERIAL TO MR. LIN AND HIS
12 EXPERTISE OR THE LACK OF IS IMPORTANT IN TERMS OF
13 FLESHING OUT WHAT IS MATERIAL AND WHAT IS NOT, WHAT
14 HE CONSIDERS --

15 THE COURT: MATERIAL IS SUBJECTIVE OR
16 OBJECTIVE?

17 MR. FONG: IN TERMS OF THE TARGET
18 AUDIENCE FOR THIS PARTICULAR INVESTMENT AND THAT'S
19 WHERE THE NEDER CASE COMES IN YOUR HONOR, IT'S NOT
20 JUST AN OBJECTIVE STANDARD, HOWEVER IT IS OBJECTIVE
21 AS TO YOUR TARGET IN TERMS OF TO WHOM YOU ARE
22 MAKING THESE REPRESENTATIONS IN TERMS OF WHAT IS
23 MATERIAL TO ONE PERSON MAY NOT BE MATERIAL TO
24 ANOTHER PERSON.

25 THE COURT: WHAT I'M GETTING AT IS --

1 LET'S TAKE A BANK. IS THE QUESTION AS TO WHETHER
2 IT'S MATERIAL, WHETHER IT WOULD BE REPORTED TO
3 SOMEONE IN THE BANKING INDUSTRY OR WOULD THE
4 QUESTION BE MATERIAL TO THIS PARTICULAR BANK?

5 MR. FONG: OR TO THE BANKING INDUSTRY
6 BECAUSE WHICH IN THIS CASE WOULD BE VERY, VERY HIGH
7 POWER, HIGH NET WORTH INDIVIDUALS WHO ARE
8 SOPHISTICATED, SOPHISTICATED INVESTORS.

9 BECAUSE OBVIOUSLY SOMETHING THAT'S
10 IMPORTANT TO A BANK MAY HAVE NO RELEVANCE
11 WHATSOEVER TO A PERSON ON THE STREET.

12 THE COURT: YOU'RE NOT GETTING MY POINT,
13 I DON'T THINK.

14 IS THE QUESTION AS TO WHETHER SOMETHING
15 IS A MATERIAL OBJECTIVE STANDARD THAT APPLIES TO
16 THE CLASS OF THE AUDIENCE, THE CLASS OF PEOPLE TO
17 WHOM THE INVESTMENT OR THE REPRESENTATION IS BEING
18 MADE OR IS THE SUBJECTIVE MATERIALITY TO THAT
19 PARTICULAR PERSON.

20 MR. FONG: I BELIEVE IT'S OBJECTIVE
21 WITHIN THAT GROUP OF TARGETED INVESTORS.

22 THE COURT: IF THAT'S THE CASE, THEN HOW
23 MUCH RELEVANCE IS MATERIAL TO MR. LIN HIMSELF?

24 MR. FONG: WELL, MR. LIN WOULD -- MR. LIN
25 CAN DECIDE FOR HIMSELF WHAT IS MATERIAL AND WHAT IS

1 NOT. AND WHAT HE RELIED ON.

2 THE COURT: RIGHT.

3 MR. FONG: AND IT IS -- IT IS AN
4 OBJECTIVE STANDARD BUT IT'S OBJECTIVE STANDARD
5 INFLUENCED BY THE PERSON HE IS. SO THAT AN
6 OBJECTIVE PERSON LOOKING AT THIS IS WHAT MR. LIN
7 HEARD, WOULD MR. LIN BE INFLUENCED BY THIS.

8 THE COURT: IT WOULD BE AN OBJECTIVE
9 STANDARD FOR THOSE PEOPLE THAT WERE CONSIDERING
10 INVESTMENTS IN A FUND LIKE THE FUND HERE EITHER
11 THAT FIRESIDE OR -- I DON'T KNOW HOW YOU PRONOUNCE
12 IT.

13 MR. FONG: ASENQUA.

14 THE COURT: THE CLASS OF PERSONS WHO
15 WOULD INVEST IN SUCH A FUND, RIGHT?

16 MR. FONG: RIGHT. AND YOUR HONOR, WE ARE
17 TALKING ABOUT TWO THINGS.

18 THE COURT: LET'S GET TO THE POINT.
19 BECAUSE I DON'T WANT TO HOLD UP THE JURY.

20 MR. FONG: SURE.

21 THE COURT: WHAT IS IT THAT YOU WANT TO
22 TRY TO ESTABLISH WITH MR. LIN THAT YOU HAVEN'T
23 ESTABLISHED?

24 MR. FONG: WELL, I DO WANT TO FLESH OUT A
25 LITTLE BIT MORE IN TERMS OF HIS BACKGROUND BECAUSE

1 I DON'T BELIEVE THAT HE HAS BEEN COMPLETELY
2 FORTHCOMING IN TERMS OF WHAT HE HAS DONE.

3 THE COURT: I DON'T HAVE A PROBLEM WITH
4 HIS BACKGROUND. WHAT ELSE?

5 MR. FONG: WELL, AND THEN I WILL GET INTO
6 THE SPECIFIC MISREPRESENTATIONS.

7 THE COURT: THAT'S FINE. I MEAN IN THE
8 AREA THAT THE GOVERNMENT IS CONCERNED ABOUT.

9 MR. FONG: I'M NOT SURE THERE'S A
10 SIGNIFICANT DISAGREEMENT. I'M NOT GOING TO GET
11 INTO HIS NET FORTH.

12 THE COURT: WE WILL GO AND I WILL STEP IN
13 IF I THINK YOU ARE GETTING TOO FAR AFIELD.

14 MR. FONG: ALL RIGHT.

15 MR. FAZIOLI: THANK YOU, YOUR HONOR.

16 MR. LUCEY: THANK YOU, YOUR HONOR.

17 THE COURT: OKAY.

18 (WHEREUPON, THE FOLLOWING PROCEEDINGS
19 WERE HELD IN THE PRESENCE OF THE JURY:)

20 THE CLERK: PLEASE BE SEATED.

21 THE COURT: ALL RIGHT.

22 MR. FONG, YOU MAY CONTINUE.

23 MR. FONG: THANK YOU.

24
25 **CROSS-EXAMINATION BY MR. FONG (CONT.)**

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BY MR. FONG:

Q. GOOD MORNING AGAIN MR. LIN, OR ALMOST NOON.

A. GOOD MORNING, AGAIN.

THE COURT: IT'S AFTERNOON, BUT THAT'S
ALL RIGHT.

Q. LET ME SHOW YOU A DOCUMENT THAT'S BEEN
PREMARKED AS DEFENDANT'S EXHIBIT 16, MR. LIN. IT'S
A TWO-PAGE DOCUMENT AND I WILL JUST LET YOU HAVE AN
OPPORTUNITY TAKE A LOOK AT IT, SIR?

A. YES.

Q. HAVE YOU SEEN THIS DOCUMENT BEFORE?

A. YES, I HAVE.

Q. OKAY. AND I'M SORRY, IF I INTERRUPT YOU
PLEASE JUST LET ME KNOW, I APOLOGIZE.

NOW, WHAT IS YOUR UNDERSTANDING OF WHAT
THIS DOCUMENT IS?

A. THIS IS AN ANNUAL CONFERENCE BOOKLET FROM
MONTE JADE.

Q. CAN YOU TELL US WHAT'S MONTE JADE?

A. MONTE JADE IS A CHINESE AMERICAN HIGH-TECH
BUSINESS ASSOCIATION.

Q. HAVE YOU EVER BEEN AFFILIATED WITH MONTE JADE?

A. YES, I WAS A MEMBER AND BOARD MEMBER AND
CHAIRMAN.

1 Q. OKAY. AND LET ME DIRECT YOUR ATTENTION TO THE
2 SECOND PAGE OF EXHIBIT 16; DO YOU SEE THAT, SIR?

3 A. YES.

4 Q. AND CAN YOU TELL US AGAIN IN GENERAL WHAT THAT
5 IS?

6 A. IT IS AN OPENING STATEMENT FROM THE CHAIRMAN
7 AT THE TIME I SERVED AS A CHAIRMAN.

8 Q. SO THE SECOND PAGE IS A STATEMENT BY YOU AS
9 THE CHAIRMAN OF THIS ORGANIZATION MONTE JADE; IS
10 THAT CORRECT?

11 A. YES.

12 Q. AS PART OF THE 2000 ANNUAL CONFERENCE FOR THAT
13 ORGANIZATION; IS THAT CORRECT?

14 A. CORRECT.

15 Q. OKAY.

16 MR. FONG: YOUR HONOR, I WOULD MOVE --
17 MOVE INTO EVIDENCE EXHIBIT 16 PLEASE.

18 MR. LUCEY: NO OBJECTION, YOUR HONOR.

19 THE COURT: OKAY. IT WILL BE RECEIVED.
20 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 16 HAVING
21 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
22 ADMITTED INTO EVIDENCE.)

23 MR. FONG: I APOLOGIZE, HERE'S YOUR COPY.

24 THE WITNESS: THANK YOU.

25 Q. AND MR. LIN, FIRST OF ALL, DO YOU SEE PAGE TWO

1 OF EXHIBIT 16?

2 A. YES.

3 Q. OKAY. AND THIS IS A PHOTOGRAPH OF YOU IN THE
4 UPPER LEFT-HAND CORNER ON PAGE TWO; IS THAT
5 CORRECT?

6 A. CORRECT.

7 Q. OKAY. AND YOU'RE IDENTIFIED BY THE NAME BOB
8 FU-YUAN LIN; IS THAT CORRECT?

9 A. YES.

10 Q. AND THEN BELOW THAT THERE ARE THREE LINES,
11 WHAT I GATHER TO BE YOUR PROFESSIONAL
12 QUALIFICATIONS; IS THAT CORRECT?

13 A. AT THAT TIME THOSE WERE SOME OF THE TITLES I
14 USED, YES.

15 Q. COULD YOU READ THE FIRST ONE FOR US?

16 A. FOUNDER MULTI-DIMENSIONAL VENTURE PARTNERS.

17 Q. CAN YOU TELL US WHAT THE MULTI DIMENSIONAL
18 VENTURES ARE?

19 A. IT'S IT IS ANGEL GROUP JUST A PARTNERSHIP, ME
20 AND SOME FRIENDS WE HELP ENTREPRENEUR.

21 Q. OKAY. WHEN WAS THAT STARTED?

22 A. THIS WAS STARTED AROUND MID-2000, I THINK.
23 MID-2000, YEAH.

24 Q. THE NEXT LINE, CAN YOU READ THAT?

25 A. MANAGING PARTNER ASENQUA VENTURES.

1 Q. OKAY. THIS WOULD BE ASENQUA VENTURES THAT IS
2 AN ENTITY AFFILIATED WITH MR. ALBERT HU, CORRECT?

3 A. SUPPOSEDLY, YES.

4 Q. YOU SAID SUPPOSEDLY. YOU KNOW THAT, RIGHT?

5 A. YEAH. I KNEW IT IS, YEAH.

6 Q. NOW, BY THE WAY, HOW MANY PEOPLE WAS THIS
7 DISTRIBUTED TO, THIS CHAIRMAN'S MESSAGE THAT YOU
8 KNOW?

9 A. IT'S TO THE MEMBERS. I DON'T KNOW HOW MANY.

10 Q. HOW MANY MEMBERS DO YOU RECALL APPROXIMATELY
11 HOW MANY MEMBERS WERE PART OF THE MONTE JADE
12 ASSOCIATION?

13 A. SEVERAL THOUSAND.

14 Q. OKAY. SO THIS WAS SENT TO SEVERAL THOUSAND
15 INDIVIDUALS, RIGHT?

16 A. YES.

17 Q. AND THESE WERE ALL -- THESE WERE ALL
18 PROFESSIONAL PEOPLE WHO ARE IN THE HIGH-TECH
19 INDUSTRY, RIGHT?

20 A. CORRECT.

21 Q. OKAY. AND SO YOU WERE IDENTIFYING YOURSELF AS
22 THE MANAGING PARTNER OF ASENQUA AS FAR AS FOUNDER
23 OF MULTI DIMENSIONAL VENTURE PARTNERS; IS THAT
24 CORRECT?

25 A. CORRECT.

1 Q. THEN YOU ALSO IDENTIFIED YOURSELF AS THE
2 CO-FOUNDER OF ACORN CAMPUS; IS THAT CORRECT?

3 A. CORRECT.

4 Q. AND TELL US WHAT IS ACORN CAMPUS?

5 A. ACORN CAMPUS IS AN INCUBATOR VENTURE FUND
6 FOUNDED BY ME AND THREE OTHER PARTNERS.

7 Q. AND WHEN DID ACORN VENTURE CAMPUS, WHEN DID
8 THAT START?

9 A. 2000.

10 Q. THEN THE MESSAGE YOU HAD FOR THE MEMBERS OF
11 THE MONTE JADE WAS WELCOME TO THE CONFERENCE, THE
12 ANNUAL CONFERENCE KIND OF MESSAGE?

13 A. I BELIEVE IT'S TO ENCOURAGE THEM FOR LOOK
14 FORWARD TO A MORE PROSPEROUS AND HAPPIER WORLD.

15 Q. AND THAT WOULD BE IN LINE WITH YOUR
16 PHILOSOPHY?

17 A. I WOULDN'T CALL IT PHILOSOPHY, JUST SOMETHING
18 I WROTE.

19 Q. BUT THAT WAS YOUR BELIEF?

20 A. YES.

21 Q. NOW, THEN DO YOU SEE THAT LINE OVER HERE
22 TOWARD THE BOTTOM OF THE PAGE TWO OF EXHIBIT 16,
23 MR. LIN?

24 A. UH-HUH.

25 Q. I'M SORRY IS THAT A YES?

1 A. I'M SORRY, PLEASE. ASK THE QUESTION AGAIN.

2 Q. DO YOU SEE THIS LINE HERE ABOVE THE LOWER
3 THIRD OR LOWER FOURTH OF PAGE 2?

4 A. OKAY, YES.

5 Q. OKAY. NOW, CAN YOU READ THE FIRST SENTENCE
6 FOR ME?

7 A. UNDER THE LINE?

8 Q. YES.

9 A. BOB LIN IS THE FOUNDER OF MULTI DIMENSIONAL
10 VENTURE PARTNERS, AN ANGEL VENTURE GROUP IN SILICON
11 VALLEY AND ASIA AND THE COFOUNDER OF CAPITAL
12 MULTIPLIER INTERNATIONAL, AN AUTOMATED FOREX
13 INVESTMENT FLAT FORM COMPANY, HE SERVES AS THE
14 MANAGING PARTNER OF ASENQUA VENTURE. HE ALSO
15 COFOUNDED AND SERVED AS THE GENERAL PARTNER OF IT'S
16 CORN CAMPUS FUND 1 AND 2 AND ACORN ANGELS.

17 BOB HAS MORE THAN 25 YEARS OF ANGELS AND
18 VENTURE INVESTMENT EXPERTISE WITH MULTIPLE IPO'S
19 AND A LONG HISTORY OF ENTREPRENEURIAL STARTUP
20 INTERNATIONAL BUSINESS MARKETING AND MANAGEMENT
21 EXPERIENCES.

22 Q. THANK YOU.

23 NOW LET ME JUST FOCUS ON SOME OF THE
24 PARTICULARS THERE. FIRST OF ALL, IPO IS INITIAL
25 PUBLIC OFFERING; IS THAT CORRECT?

1 A. CORRECT.

2 Q. AND WHAT IS INITIAL PUBLIC OFFERING WITH THOSE
3 OF US WHO ARE NOT SOPHISTICATED IN FINANCES?

4 A. A RECENT EXAMPLE WOULD BE A FACEBOOK.

5 Q. I'M SORRY?

6 A. WHICH BECOME LISTED ON THE PUBLIC MARKET.

7 Q. SO THAT'S WHEN A PRIVATE STARTUP COMPANY
8 BECOMES A PUBLIC TRADING COMPANY; IS THAT CORRECT?

9 A. YES, YES.

10 Q. SO NOW?

11 Q. BY THE WAY THIS SECTION ON BELOW THE LINE ON
12 PAGE TWO, NOW THAT'S INFORMATION YOU WROTE TO
13 ACCOMPANY YOUR MESSAGE; IS THAT CORRECT?

14 A. CORRECT.

15 Q. OKAY. SO EVERYTHING THERE IS ACCURATE AND
16 TRUTHFUL TO THE BEST OF YOUR UNDERSTANDING CORRECT?

17 A. YES.

18 Q. SECOND PARAGRAPH WHY DON'T YOU READ IT FOR US?

19 A. CAN YOU MOVE A LITTLE BIT?

20 Q. I'M SORRY YOU COULD READ IT IF YOU WANT --

21 A. ACTUALLY IT'S LARGER.

22 Q. BOB SERVE ON THE BOARD, PRESENTLY AND IN THE
23 PAST OF PINE PHOTONICS, MONTE JADE TECHNOLOGIES,
24 GREATLAND ELECTRONICS, SANTRUM NETWORKS AND LUXNET
25 OF TAIWAN AND EPIN TECHNOLOGIES AND HENBANG OF

1 CHINA. THEY ARE SOME OF THIGH PORTFOLIOS.

2 Q. THEN THE THIRD PARAGRAPH?

3 A. BOB IS THE AUTHOR OF THREE TOP SELLING BOOKS
4 IN ASIA, FIND YOUR WAY TO SUCCESS AND HAPPINESS,
5 CREATING VALUE TO DIFFERENTIATE, AND BUILD YOUR
6 CAREER FROM WHERE YOU ARE. HE IS WORKING ON THE
7 FOURTH BOOK, IT IS EASY TO BE SUPER HAPPY.

8 Q. AND I GATHER THIS WAS WRITTEN AROUND THE TIME
9 OF THE 2007 CONFERENCE SO THAT IT WOULD HAVE BEEN
10 AROUND 2007, RIGHT.

11 A. YES.

12 Q. DID YOU EVER PUBLISH THE FOURTH BOOK?

13 A. YES, I DID.

14 Q. GOOD.

15 Q. THE LAST LINE, PLEASE READ.

16 A. BOB HOLDING MSEE FROM UNIVERSITY OF CAL AT
17 SANTA BARBARA. HE HAS BEEN VERY ACTIVE IN
18 COMMUNITY SERVICES.

19 Q. I'M GOING TO SHOW MR. LIN WHAT'S PREMARKED AS
20 DEFENDANT'S EXHIBIT 18.

21 FIRST OF ALL MR. LIN, AND I WANT TO GIVE
22 YOU AN OPPORTUNITY OF COURSE TO READ THAT. BUT
23 FIRST OF ALL DO YOU SEE THAT ONE-PAGE DOCUMENT HAS
24 BEEN MARKED AS DEFENDANT'S EXHIBIT NUMBER 18?

25 A. YES.

1 Q. OKAY. AND THAT'S A ONE PAGE DOCUMENT; IS THAT
2 RIGHT?

3 A. YES.

4 Q. NOW DO YOU RECOGNIZE THAT DOCUMENT?

5 A. IT IS FOR A CONFERENCE HELD BY NUS NATIONAL
6 UNIVERSITY OF SINGAPORE, I WAS INVITED TO GIVE
7 TALKS.

8 Q. ALL RIGHT. AND WHEN WAS THIS CONFERENCE, IF
9 YOU REMEMBER?

10 A. SOMETIME IN 2006 I BELIEVE.

11 Q. ALL RIGHT. WHAT IS THE NATIONAL UNIVERSITY OF
12 SINGAPORE TO THE BEST OF YOUR UNDERSTANDING AND
13 KNOWLEDGE?

14 A. IT WAS ONE OF THE LARGEST UNIVERSITY IN
15 SINGAPORE.

16 Q. ALL RIGHT. AND WHAT IS THE TOPIC OF THIS TALK
17 THAT YOU WERE SUPPOSED TO GIVE?

18 A. ENTREPRENEURSHIP.

19 Q. AND IT WAS GLOBAL ENTREPRENEURSHIP; IS THAT
20 CORRECT?

21 A. YES.

22 Q. OKAY.

23 MR. FONG: YOUR HONOR, I WOULD MOVE INTO
24 EVIDENCE DEFENSE'S EXHIBIT NUMBER 18.

25 MR. LUCEY: YOUR HONOR, WE WOULD OBJECT

1 AT THIS POINT.

2 THE COURT: I'M NOT SURE THAT I SEE THE
3 RELEVANCE OF THE STATEMENTS IN THE DOCUMENT.

4 MR. FONG: MAY I --

5 THE COURT: WE WILL TAKE IT UP --

6 MR. FONG: I'M SORRY.

7 THE COURT: WE WILL TAKE IT UP LATER SO
8 WE DON'T TAKE JURY TIME TO DISCUSS IT.

9 MR. FONG: ALL RIGHT.

10 Q. NOW, MR. LIN, IN THIS DOCUMENT, THERE'S A
11 BIOGRAPHY SECTION FOR YOU RIGHT?

12 A. YES.

13 Q. AND IN THAT BIOGRAPHY SECTION IT SAYS THAT
14 PART OF WHAT YOU WERE DOING IN 2006 WAS ADVISING
15 ASENQUA VENTURE FUND IN SILICON VALLEY; IS THAT
16 CORRECT?

17 A. VENTURE, YES.

18 Q. OKAY. SO IN 2006 YOU WERE INVOLVED WITH AN
19 ASENQUA VENTURE FUND?

20 A. YES.

21 Q. OKAY. AND YOU FELT THAT IT WAS IMPORTANT
22 ENOUGH TO PUT THAT IN YOUR BIOGRAPHY OF THIS TALK
23 THAT YOU WERE GIVING TO ONE OF THE BIGGEST
24 UNIVERSITIES IN SINGAPORE?

25 A. IN FACT, AT THAT TIME I WAS VERY PROUD TO BE

1 ASSOCIATED WITH ALBERT HU I TRUST HIM VERY MUCH.

2 Q. OKAY. DO YOU REMEMBER WHEN IN 2006 THIS
3 SUMMIT TOOK PLACE?

4 A. I DON'T REMEMBER THE EXACT TIME.

5 Q. OKAY. BUT YOU MADE YOUR FIRST INVESTMENT WITH
6 MR. HU'S ASENQUA BETA FUND IN EARLY 2005?

7 A. YES.

8 Q. SO THIS WOULD HAVE BEEN ABOUT AT THE VERY LEFT
9 A YEAR LATER; IS THAT CORRECT?

10 A. CORRECT.

11 Q. NOW, MR. LIN YOU HAD INVESTED IN A COMPANY
12 THAT JEAN MARK VERDIELL STARTED?

13 A. 1998. LIGHT LOGIC.

14 Q. WHAT WAS YOUR ROLE IN TERMS OF YOUR INVESTMENT
15 IN LIGHT LOGIC?

16 A. I WAS ONE OF THE FIRST ANGEL INVESTOR.

17 Q. OKAY. IF YOU COULD SHARE WITH US YOUR
18 UNDERSTANDING OF THE TERM ANGEL INVESTOR?

19 A. THE COMPANY WAS ACQUIRED I'M SORRY YOUR
20 QUESTION AGAIN.

21 Q. IF YOU COULD SHARE WITH US YOUR UNDERSTANDING
22 OF WHAT THE TERM ANGEL INVESTOR MEANS?

23 A. ANGEL INVESTOR MEANS AN INDIVIDUAL NOT THE
24 FUND, AN INDIVIDUAL WHO PERSONALLY INVESTS HIS OWN
25 PERSONAL MONEY INTO A COMPANY TO HELP THE COMPANY

1 LAUNCH.

2 Q. AND THAT INVESTMENT TURNED OUT TO BE VERY
3 SUCCESSFUL; IS THAT CORRECT?

4 A. CORRECT.

5 Q. AND THE COMPANY WAS ACQUIRED SUBSEQUENTLY BY
6 INTEL; IS THAT CORRECT?

7 A. CORRECT.

8 Q. AND THE COMPANY, NOT YOU, BUT THE COMPANY WAS
9 ACQUIRED BY INTEL FOR ABOUT \$400 MILLION?

10 A. YES, CORRECT, PUBLIC RECORD.

11 Q. AND THE PEOPLE WHO INVESTED ORIGINALLY UPON
12 WHEN INTEL ACQUIRED LIGHT LOGIC, THE PEOPLE WHO
13 INVESTED ORIGINALLY MADE ABOUT HUNDRED TIMES THEIR
14 ORIGINAL INVESTMENT?

15 THE COURT: WE ARE GETTING OFF WHAT'S
16 REALLY RELEVANT TO THIS CASE.

17 MR. FONG: OKAY.

18 Q. BUT YOU WERE ONE OF THE SUCCESSFUL ORIGINAL
19 INVESTORS?

20 A. YES.

21 Q. OKAY. AND YOU HAVE -- AND YOU ALSO INVESTED
22 IN ANOTHER COMPANY THAT MR. VERDIELL STARTED THAT
23 IS CORRECT?

24 A. APERUS.

25 Q. AND WHAT IS APERUS?

1 A. OPTICAL SUBSYSTEM. FIBER OPTICAL SYSTEM.

2 Q. AND WHEN DID YOU INVEST IN THE APERUS COMPANY.
3 THAT WAS MUCH LATER, MUCH LATER?

4 Q. WAS THAT BEFORE OR AFTER YOU MADE YOUR FIRST
5 INVESTMENT IN ASENQUA BETA?

6 A. I BELIEVE AFTER, YES.

7 Q. SO YOU AND MR. VERDIELL HAVE HAD A WORKING
8 RELATIONSHIP IN TERMS OF YOUR INVESTMENT FOR A GOOD
9 PART OF 10, 12 YEARS?

10 A. HE CAME TO ME, 1998, SO THAT WAS THE FIRST
11 TIME I MET HIM. HE WAS TRYING TO START HIS DREAM
12 AND I WAS ONE OF THE FIRST FEW WHO HELPED HIM. SO
13 SINCE THEN, MANY YEARS.

14 Q. AND OF COURSE YOU HAVE THROUGHOUT THE YEARS
15 YOU HAVE MAINTAINED CONTACT WITH MR. VERDIELL; IS
16 THAT CORRECT?

17 A. CORRECT.

18 Q. AND THE TWO OF YOU WOULD OFTEN TALK ABOUT
19 INVESTMENT STRATEGIES; IS THAT CORRECT?

20 A. NO. WE WOULD TALK ABOUT HIS BUSINESS, TALK
21 ABOUT EXPERIENCE OF LIGHT LOGIC, TALK ABOUT
22 EXPERIENCE OF APERUS. NOT NECESSARILY ABOUT
23 INVESTMENT. WE ARE PERSONAL FRIENDS.

24 Q. I'M SORRY YOU ARE PERSONAL FRIENDS?

25 A. PERSONAL FRIENDS, YEAH, AFTER INVESTMENT

1 BECAME PERSONNEL FRIENDS.

2 Q. BUT THE TWO OF YOU AMONG OTHER TOPICS, YOU DID
3 TALK ABOUT INVESTMENTS, RIGHT?

4 A. WHAT INVESTMENT, EXCUSE ME.

5 Q. WELL JUST INVESTMENTS IN GENERAL?

6 A. YEAH, MOSTLY VENTURE INVESTMENT BECAUSE HE'S
7 AN ENTREPRENEUR I'M ALSO AN ENTREPRENEUR, THAT'S
8 WHAT WE LIKE.

9 Q. YOU FIRST, IT WAS YOU WHO TOLD MR. VERDIELL
10 THE ASENQUA BETA FUND; IS THAT CORRECT?

11 A. YES.

12 Q. IN FACT YOU INTRODUCED MR. VERDIELL TO
13 MR. ALBERT HU; IS THAT CORRECT?

14 A. YES. MAY I EXPLAIN?

15 Q. SURE.

16 A. OKAY. MR. ALBERT HU RENTED AN OFFICE CUBICLE
17 IN A SUNNYVALE BUILDING CALLED PLUG AND PLAY. SO
18 HE INVITE ME THERE TO MEET HIM TO REVIEW SO CALLED
19 ASENQUA VENTURE DEAL. SO WE REVIEWED.

20 AFTER MEETING I RAN INTO JEAN MARK
21 VERDIELL WHO HAPPENS TO BUILD HIS NEW COMPANY IN
22 THE SAME BUILDING JUST A FEW CUBICS AWAY. WE RAN
23 INTO EACH OTHER.

24 NATURALLY, I INTRODUCED TWO OF THEM TO
25 MEET EACH OTHER. JUST HEY, I'M WORKING WITH THIS

1 GUY, HE'S PRETTY GOOD, GIVE ME GOOD RETURN, YES

2 Q. NOW WHEN WAS IT THAT YOU INTRODUCED

3 MR. VERDIELL TO MR. HU?

4 A. I DON'T REMEMBER WHEN THE EXACT TIME WAS.

5 THAT'S THE TIME THEY, MR. HU RENTED A SPACE IN PLUG
6 AND PLAY.

7 Q. BUT YOU HAD ALREADY, AT THE TIME YOU HAD
8 INTRODUCED MR. VERDIELL TO MR. HU, YOU HAD ALREADY
9 INVESTED IN THE ASENQUA BETA FUND; IS THAT CORRECT?

10 A. YES.

11 Q. AND FOR MORE THAN A YEAR?

12 A. I DON'T KNOW. I DON'T REMEMBER IF IT'S MORE
13 THAN A YEAR, BUT AFTER I INVESTED, YES.

14 Q. AND YOU KNEW THAT MR. VERDIELL TRUSTED YOUR
15 JUDGMENT AND OPINIONS AND ADVICE; IS THAT CORRECT?

16 MR. LUCEY: OBJECTION, YOUR HONOR. CALLS
17 FOR SPECULATION.

18 THE COURT: I WILL ALLOW HIM TO STATE
19 HIS -- IF HE UNDERSTOOD OR FELT THAT MR. VERDIELL
20 TRUSTED HIM. AND WHETHER HE DID OR NOT IS A
21 DIFFERENT QUESTION.

22 DID YOU THINK HE TRUSTED YOU?

23 THE WITNESS: I THINK SO.

24 BY MR. FONG:

25 Q. OKAY. AND YOUR UNDERSTANDING, YOUR BELIEF IS

1 THAT MR. VERDIELL TRUSTED AND VALUED YOUR OPINIONS
2 AND JUDGMENT AND ADVICE ON INVESTMENTS; IS THAT
3 CORRECT?

4 A. I INTRODUCED THEM AS FRIENDS JUST LIKE YOU RUN
5 INTO EACH OTHER ON THE STREET. IF YOU DON'T WANT
6 TO AVOID THE FRIEND YOU JUST SHAKE HANDS. THIS GUY
7 IS THAT GUY.

8 Q. OKAY. I UNDERSTAND THAT. BUT MY QUESTION IS
9 A LITTLE BIT MORE GENERAL. LET ME ASK IT AGAIN IF
10 I MAY.

11 A. PLEASE.

12 Q. I WILL LET YOU TAKE A DRINK OF WATER, FIRST.

13 NOW, I'M NOT REFERRING TO JUST THE
14 INTRODUCTION OF MR. HU AND MR. VERDIELL'S ADVICE
15 FIRST.

16 IN GENERAL, YOUR BELIEF IS THAT
17 MR. VERDIELL TRUSTED AND VALUED YOUR JUDGMENT AND
18 ADVICE AND I BELIEVE YOU SAID YES TO THAT, RIGHT?

19 A. IF I MAY REPHRASE. I SHOULD SAY WE LIKE EACH
20 OTHER AS FRIENDS.

21 Q. I COULD ACTUALLY UNDERSTAND THAT. BUT MY
22 QUESTION IS --

23 A. BECAUSE I CANNOT SPEAK FOR HIM.

24 Q. I'M JUST ASKING YOUR BELIEF?

25 A. THAT WE LIKE EACH OTHER AS FRIENDS, YES.

1 Q. BUT YOUR BELIEF AS TO WHETHER OR NOT YOU FELT
2 THAT HE TRUSTED AND VALUED YOUR ADVICE AND
3 JUDGMENT?

4 A. YES.

5 Q. OKAY. AS TO INVESTMENTS?

6 A. THAT I DON'T KNOW.

7 Q. OKAY. NOW I WANT TO SHOW YOU A DOCUMENT
8 THAT'S BEEN MARKED AS GOVERNMENT'S EXHIBIT 12.

9 IT'S A 40 PAGE DOCUMENT SO JUST TAKE A
10 MOMENT SIR AND TAKE A LOOK AT IT, IF YOU DON'T
11 MIND.

12 WHENEVER YOU ARE READY MR. LIN LET ME
13 KNOW WHEN YOU HAVE HAD A CHANCE TO LOOK AT THE
14 DOCUMENT TO SEE IF YOU RECOGNIZE THAT DOCUMENT.

15 THE COURT: I THINK ALL HE WANTS TO TELL
16 US AT THIS POINT IS GENERALLY DO YOU RECOGNIZE THAT
17 DOCUMENT?

18 THE WITNESS: YES.

19 BY MR. FONG:

20 Q. OKAY. WHAT DO YOU RECOGNIZE THAT DOCUMENT AS?

21 A. IT'S IT IS FIRESIDE LS FUND, LLP CONFIDENTIAL
22 PRIVATE PLACEMENT MEMORANDUM.

23 Q. NOW THIS WAS A DOCUMENT THAT WAS GIVEN TO YOU
24 AT ANY POINT?

25 A. I DON'T RECALL. I RECALL THE FIRESIDE

1 SUBSCRIPTION BOOKLET BUT I DON'T RECALL THIS
2 FIRESIDE LS FUND, LLP.

3 Q. ALL RIGHT.

4 NOW DO YOU -- DID YOU GET A PRIVATE
5 PLACEMENT MEMORANDUM WHEN YOU WERE INVESTING IN THE
6 ASENQUA BETA FUND?

7 A. I REMEMBER RECEIVING THE POWERPOINT, THE
8 BROCHURE AND THE SUBSCRIPTION BOOKLET. I DON'T
9 REMEMBER THE PLACEMENT.

10 Q. OKAY. DO YOU RECALL -- SO DO YOU KNOW IF YOU
11 RECEIVED A PRIVATE PLACEMENT MEMORANDUM.

12 A. I DO NOT REMEMBER, IT'S BEEN QUITE A FEW
13 YEARS.

14 Q. OKAY. NOW YOU OF COURSE KEPT DOCUMENTS THAT
15 YOU CONSIDERED TO BE IMPORTANT; IS THAT CORRECT?

16 A. AS MUCH AS I CAN, YES.

17 Q. OKAY. SO YOU DON'T RECALL IF YOU HAVE SEEN
18 GOVERNMENT'S EXHIBIT 12, RIGHT?

19 A. NO, I CANNOT REMEMBER THAT.

20 Q. NOW YOU MENTION THAT YOU SAW A POWER POINT
21 PRESENTATION; IS THAT CORRECT?

22 A. YES.

23 Q. OKAY. AND APPROXIMATELY WHEN -- THIS WAS IN
24 CONNECTION WITH MR. HU AND YOU DISCUSSING YOUR
25 DECISION TO INVEST OR NOT TO INVEST IN THE ASENQUA

1 BETA FUND; IS THAT CORRECT?

2 A. DURING THE FIRST MEETING, YEAH, HE PRESENTED
3 THE FUNDS THROUGH A POWERPOINT, PREPRINTED THEM.

4 Q. OKAY. AND WAS THAT AROUND NOVEMBER 2004?

5 A. NO, THERE WAS AN EARLIER VERSION OF ASENQUA
6 BETA FUND IN THE FIRST MEETING. WHENEVER THE FIRST
7 MEETING TOOK PLACE, YEAH, IN MY OFFICE.

8 Q. OKAY. AND IN THE POWERPOINT DID YOU SEE --
9 WELL, LET ME ASK YOU, WERE THERE ANY STATEMENTS
10 ABOUT THE RETURN HISTORY, THE HISTORY OF THE
11 PERFORMANCE OF THE ASENQUA BETA FUND?

12 A. YES, I REMEMBER THERE WERE.

13 Q. OKAY. AND DID YOU LOOK AT THAT, YOU SAW THAT,
14 RIGHT?

15 A. YES.

16 Q. OKAY.

17 A. IT WAS PRESENTED TO ME PAGE BY PAGE.

18 Q. OKAY. HOW MUCH TIME DID YOU SPEND
19 APPROXIMATELY IN GOING OVER THE POWERPOINT WITH
20 MR. HU?

21 A. A FEW HOURS IN MY OFFICE, I REMEMBER THAT.

22 Q. AND ALSO PRESENT WAS A GENTLEMAN BY THE NAME
23 OF STEVEN BOND; IS THAT CORRECT?

24 A. CORRECT.

25 Q. AND YOUR UNDERSTANDING IS THAT MR. BOND WAS

1 THE ASENQUA BETA FUND MANAGER; IS THAT CORRECT?

2 A. I DON'T KNOW IF THE WORD MANAGER WAS USED BUT
3 HE WORKS FOR ALBERT. I DON'T KNOW IF MANAGER WAS
4 THE TITLE.

5 Q. OKAY. AND IN FACT, YOU GOT TO KNOW MR. BOND A
6 LITTLE BIT SUBSEQUENTLY; IS THAT CORRECT?

7 A. YES. THROUGH MR. HU, YES.

8 Q. AND YOU AND MR. BOND TRAVELLED THROUGHOUT ASIA
9 ON OCCASIONS, RIGHT?

10 A. A FEW TIMES AT THE REQUEST OF ASENQUA VENTURE,
11 YES.

12 Q. AND YOU WERE DOING SO AS PART OF THE ASENQUA
13 VENTURE MANAGEMENT TEAM; IS THAT CORRECT?

14 A. YES, YES, UH-HUH.

15 Q. AND YOU AND MR. BOND WERE IN ESSENCE, TOUTING
16 THE ASENQUA VENTURE MANAGEMENT FUND WAS A GOOD
17 INVESTMENT; IS THAT CORRECT?

18 A. ASENQUA VENTURE IS NOT AN INVESTMENT IT'S
19 ANGEL GROUP CO-INVEST: ASENQUA IS THE
20 CO-INVESTMENT VEHICLE.

21 Q. BUT YOU WERE TRAVELLING WITH MR. BOND TO TALK
22 ABOUT THE VIRTUES OF ASENQUA?

23 A. I DON'T THINK I DID THAT. I HAVE SEVERAL
24 VENTURE FUND. MY FOCUS IS TO LOCATE GOOD STARTUP
25 AND INTRODUCE THEM TO ASENQUA VENTURE SEE IF WE CAN

1 HELP THOSE START UP, SEE IF WE CAN HELP THOSE
2 ENTREPRENEURS.

3 Q. NOW, YOU WERE REIMBURSED BY ASENQUA FOR YOUR
4 TRAVEL FUNDS, RIGHT?

5 A. YES. TWO TIMES OR THREE TIMES, YES.

6 Q. AND IN FACT ON ONE OCCASION ASENQUA PAY FOR
7 YOUR INSURANCE COPAYMENT; IS THAT CORRECT?

8 A. I DON'T REMEMBER WHEN, THERE'S A SMALL SHORT
9 PERIOD OF TIME. BY THE WAY, THE REIMBURSEMENT IS I
10 PAY FOR THE AIR TICKET AND THE HOTEL FIRST. THEN
11 THEY BASED ON THE REIMBURSEMENT BECAUSE I TRAVEL TO
12 HELP THEM, YES.

13 Q. BUT YOU DID -- YOU DO REMEMBER HAVING ASENQUA
14 PAY YOU FOR YOUR INSURANCE COPAYMENT?

15 A. I DON'T REMEMBER FOR HOW LONG OR WHEN.

16 Q. BUT THEY DID?

17 A. I DON'T REMEMBER.

18 Q. YOU DON'T REMEMBER THEY DID THAT AT ALL?

19 A. I DON'T. I DON'T. AT THAT TIME I WAS ALSO
20 INSURED BY ACORN CAMPUS.

21 Q. I'M GOING TO HAND YOU A SET OF DOCUMENTS
22 THAT'S BEEN MARKED AS DEFENDANT'S EXHIBIT 1. THERE
23 ARE SEVEN PAGES TO EXHIBIT 1.

24 A. OKAY.

25 Q. HAVE YOU HAD A CHANCE TO LOOK THROUGH

1 EXHIBIT 1?

2 A. OKAY. I'M LOOKING AT IT NOW.

3 Q. DO YOU RECOGNIZE THE DOCUMENTS THAT ARE, THAT
4 MAKE UP EXHIBIT 1 -- I SHOULD SAY DEFENDANT'S
5 EXHIBIT 1, I APOLOGIZE.

6 A. OKAY.

7 Q. DO YOU RECOGNIZE IT?

8 A. I RECOGNIZE IT, IT'S A CHECK FOR REIMBURSEMENT
9 OR --

10 Q. OKAY. AND THESE ARE -- I GATHER YOU ARE
11 REFERRING TO CHECK SINGULAR BECAUSE YOU ARE LOOKING
12 AT THE FIRST PAGE, RIGHT?

13 A. I'M LOOKING AT THE FIRST PAGE, YES.

14 Q. I GUESS WHAT I'M ASKING YOU IS THE OTHER PAGES
15 NOW THEY CONTAIN COPIES OF CHECKS THAT WERE WRITTEN
16 DO YOU; IS THAT CORRECT?

17 A. YEAH, REIMBURSEMENT.

18 Q. FROM ASENQUA VENTURE MANAGEMENT; IS THAT
19 CORRECT?

20 A. YES, YES.

21 MR. FONG: YOUR HONOR, I WOULD MOVE
22 DEFENDANT'S EXHIBIT 1 WHICH IS SEVEN PAGES INTO
23 EVIDENCE.

24 MR. LUCEY: NO OBJECTION, YOUR HONOR.

25 THE COURT: ALL RIGHT.

1 EXHIBIT 1 IS ADMITTED. DEFENDANT'S
2 EXHIBIT 1.

3 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 1 HAVING
4 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS
5 ADMITTED INTO EVIDENCE.)

6 MR. FONG: YES.

7 THE COURT: DO YOU BOTH HAVE EXHIBIT 1?

8 MR. FAZIOLI: I THINK WE DO, YOUR HONOR.

9 THE COURT: OKAY. ALL RIGHT.

10 BY MR. FONG:

11 Q. NOW MR. LIN, THE FIRST PAGE OF EXHIBIT 1, LET
12 ME PUBLISH THAT, OKAY, WE WILL GIVE IT A TRY.

13 ARE YOU ABLE TO READ YOUR COPY?

14 A. SOMEWHAT, YES.

15 Q. THE FIRST PAGE OF EXHIBIT 1?

16 A. YES.

17 Q. IS THAT A \$4,306.50 CHECK?

18 A. YES.

19 Q. AND THAT'S PAYABLE TO YOU, RIGHT?

20 A. YES.

21 Q. AND THAT'S FROM ASENQUA VENTURES MANAGEMENT
22 LLC; IS THAT CORRECT?

23 A. UH-HUH.

24 Q. I'M SORRY IS THAT -- THAT'S FROM THE CHECK IS
25 MADE BY ASENQUA VENTURES MANAGEMENT; IS THAT

1 CORRECT?

2 A. YES.

3 Q. IT APPEARS TO BE DATED DECEMBER 2006, IS THAT
4 WHAT YOU SEE?

5 A. YES, IT SAYS DECEMBER 2006.

6 Q. OKAY. AND THE SECOND PART OF THAT CHECK, THE
7 LOWER PART, DO YOU SEE THAT, SIR?

8 A. YES.

9 Q. IS THAT -- I'M POINTING TO A SIGNATURE THAT'S
10 ON THE RIGHT-HAND EDGE OF THAT THE PARTICULAR, THE
11 LOWER CHECK ON PAGE ONE OF EXHIBIT 1, DEFENDANT'S
12 EXHIBIT 1. DO YOU SEE THAT, SIR?

13 A. YES.

14 Q. IS THAT YOUR SIGNATURE?

15 A. IT IS.

16 Q. DIRECTING YOUR ATTENTION TO A MUCH CLEARER
17 PAGE TWO OF THE DEFENDANT'S EXHIBIT 1, DO YOU SEE
18 THAT, SIR?

19 A. YES.

20 Q. AND THAT IS A \$6,381.50 REIMBURSEMENT CHECK
21 FROM YOU TO ASENQUA MANAGEMENT?

22 A. UH-HUH.

23 Q. I'M SORRY IS THAT A YES?

24 A. YES.

25 MR. LUCEY: YOUR HONOR, I'M SORRY I THINK

1 IT SAYS ASENQUA ACORN, LLC.

2 MR. FONG: I'M SORRY. YES. IT'S ASENQUA
3 ACORN LLC.

4 Q. MR. LIN, IF I COULD DIRECT YOUR ATTENTION, THE
5 CHECK IS FROM ASENQUA ACORN LLC; IS THAT CORRECT?

6 A. YES, IT SAYS SO, YES.

7 Q. OKAY. AND ASENQUA ACORN IS NOT YOUR COMPANY,
8 ACORN CAMPUS, RIGHT?

9 A. NO, NO. TOTALLY UNRELATED.

10 Q. DIRECTING YOUR ATTENTION TO -- DIRECTING YOUR
11 ATTENTION TO PAGE THREE OF DEFENDANT'S EXHIBIT 1,
12 DO YOU SEE THAT SIR?

13 A. YES.

14 Q. AND THERE ARE TWO CHECKS ON THAT PAGE; IS THAT
15 CORRECT?

16 A. YES, YES.

17 Q. AND THE FIRST ONE APPEARS TO BE A \$7,050.01
18 CHECK MADE PAYABLE TO YOU, BOB LIN; IS THAT
19 CORRECT?

20 A. YES.

21 Q. AND THAT'S DATED NOVEMBER 25TH, 2005; IS THAT
22 CORRECT?

23 A. CORRECT.

24 Q. AND THAT CAME FROM ASENQUA VENTURES MANAGEMENT
25 LLC; IS THAT CORRECT?

1 A. CORRECT.

2 Q. AND THERE'S ANOTHER CHECK DATED APPEARS TO BE
3 JUST BUT LOW THAT, NOVEMBER 24TH, 2005?

4 A. YES.

5 Q. AND THAT APPEARS TO BE FOR \$1,775?

6 A. YES.

7 Q. OKAY. AND THAT'S ALSO PAYABLE TO YOU FROM
8 ASENQUA VENTURES MANAGEMENT; IS THAT CORRECT?

9 A. YES, UH-HUH.

10 Q. DIRECTING YOUR ATTENTION TO PAGE FOUR OF
11 DEFENDANT'S EXHIBIT 1, DO YOU SEE THAT, SIR?

12 A. YES.

13 Q. AND THAT'S THE FRONT AND BACK OF A CHECK; IS
14 THAT CORRECT?

15 A. YES.

16 Q. AND -- IT APPEARS TO BE A BLURRY ONE, I
17 APOLOGIZE. DIRECTING YOUR ATTENTION TO PAGE SEVEN
18 OF DEFENDANT'S EXHIBIT 1; DO YOU SEE THAT, SIR?

19 A. WHICH PAGE?

20 Q. SEVEN, PLEASE.

21 A. THE LAST ONE?

22 Q. YES.

23 A. YES.

24 Q. OKAY. AND DOES THAT APPEAR TO BE A CHECK IN
25 THE AMOUNT OF \$3,000 PAYABLE TO YOU?

1 A. YES.

2 Q. AND THAT, EVEN THOUGH IT'S HARD TO READ ON THE
3 SCREEN, IT IS COMING FROM ASENQUA VENTURE
4 MANAGEMENT LLC; IS THAT CORRECT?

5 A. YES.

6 Q. AND THE DATE APPEARS TO BE SOME TIME IN 2007;
7 IS THAT CORRECT?

8 A. YES.

9 Q. AND THEN ON THE MEMO PART, DO YOU SEE THE MEMO
10 PART? THE MEMO LINE ON THE LOWER LEFT-HAND CORNER
11 OF THE CHECK?

12 A. IT'S NOT CLEAR. NOT CLEAR.

13 Q. YOU CANNOT READ THAT?

14 A. NO. CAN TRY.

15 Q. CAN YOU READ THAT IT SAYS INSURANCE COPAY,
16 DOES THAT --

17 A. WELL, I DON'T KNOW IF YOU CAN READ IT.

18 Q. OKAY. IN YOU CANNOT READ IT, YOU CANNOT READ
19 IT.

20 MR. LIN, YOU TALKED A LITTLE BIT ABOUT
21 THE FACT THAT YOU WANTED TO IN YOUR WORDS REDEEM
22 YOUR INVESTMENT IN THE FIRESIDE AND ASENQUA FUNDS;
23 IS THAT CORRECT?

24 A. CORRECT.

25 Q. WHAT IS YOUR UNDERSTANDING OF THE WORD WHEN

1 YOU USE THE WORD REDEEM WHAT ARE YOU TALKING ABOUT?

2 A. TO GET MY INVESTMENT BACK.

3 Q. AND WHAT WAS YOUR UNDERSTANDING OF WHAT WAS
4 THE AGREEMENT THAT YOU ENTERED INTO WITH -- LET'S
5 START WITH ASENQUA BETA FUND IN TERMS OF YOU AS AN
6 INVESTOR YOUR RIGHT TO -- TO REDEEM YOUR
7 INVESTMENT?

8 A. MY UNDERSTANDING IS SO LONG I REQUEST TO
9 REDEEM THEN THE FUND MANAGER WILL PROVIDE THE FUNDS
10 BACK. AND USUALLY THERE'S A DELAY OF 1 OR 2 MONTHS
11 BUT THAT'S --

12 Q. AND THAT WAS YOUR UNDERSTANDING AS TO THE
13 EVERYTHING THAT WAS OR THAT WAS THE AGREEMENT --
14 THAT WAS YOUR UNDERSTANDING OF ALL THERE WAS TO THE
15 AGREEMENT IN TERMS OF YOUR RIGHT TO REDEEM YOUR
16 INVESTMENT IN, SAY ASENQUA BETA FUND, RIGHT?

17 A. YES.

18 Q. OKAY. DID YOU HAVE THE SAME UNDERSTANDING AS
19 TO THE FIRESIDE LS FUND?

20 A. IT SHOULD BE THE SAME.

21 Q. OKAY. AND DO YOU HAVE ANY UNDERSTANDING OF
22 WHETHER OR NOT THAT AS LONG AS -- MY BAD.

23 DID YOU HAVE ANY UNDERSTANDING THERE WERE
24 CERTAIN CONDITIONS UNDER WHICH THE FUND WOULD NOT
25 HAVE TO REDEEM YOUR MONEY AT THE TIME -- YOUR

1 INVESTMENT, AT THE TIME YOU ASKED FOR IT?

2 A. I DON'T REMEMBER THAT.

3 Q. OKAY. LET ME HAVE YOU LOOK AT GOVERNMENT'S
4 EXHIBIT 12 AGAIN.

5 AND I KNOW THIS IS A DOCUMENT THAT YOU
6 DON'T NECESSARILY RECALL SEEING. I JUST WANTED YOU
7 TO USE THAT TO SEE IF IT REFRESHES YOUR
8 RECOLLECTION.

9 OKAY. DIRECTING YOUR ATTENTION TO PAGE
10 12 OF GOVERNMENT'S EXHIBIT 12. AND BECAUSE THIS
11 DOCUMENT HAS NOT YET BEEN PUBLISHED, I WILL NOT ASK
12 YOU TO READ THAT OUT LOUD YET.

13 MR. FONG: EXCUSE ME, ONE SECOND.

14 Q. OKAY. DO YOU SEE THAT, SIR?

15 A. I LOOKED AT PAGE 12, YES.

16 Q. OKAY.

17 A. WHAT DO YOU WANT ME TO SEE?

18 Q. I JUST WANTED YOU TO READ TO YOURSELF THE PART
19 WHERE I PUT A YELLOW POST-IT ON THE PARAGRAPH.

20 AGAIN, PLEASE DO NOT READ IT OUT LOUD
21 BECAUSE THIS HAS NOT BEEN ADMITTED INTO EVIDENCE.
22 I JUST WANT TO SEE IF READING THAT WILL REFRESH
23 YOUR RECOLLECTION.

24 A. OKAY.

25 Q. OKAY. WELL, FIRST OF ALL, READING THAT

1 PARAGRAPH TO YOURSELF AS YOU JUST DID, DOES THAT
2 REFRESH YOUR RECOLLECTION AS TO YOUR UNDERSTANDING
3 OF THE AGREEMENT THAT YOU REACHED WHEN YOU MADE THE
4 INVESTMENT WITH FIRESIDE LS FUND?

5 A. I READ IT NOW BUT IT DID NOT REFRESH MY
6 RECOLLECTION.

7 THE COURT: THE QUESTION WAS WHETHER IT
8 REFRESHED YOUR RECOLLECTION WITH ANY AGREEMENTS YOU
9 HAD WITH RESPECT TO REDEMPTION.

10 THE WITNESS: NO.

11 BY MR. FONG:

12 Q. YOU SAID YOU WERE GIVEN CERTAIN DOCUMENTS
13 BEFORE YOU MADE YOUR INVESTMENT IN ASENQUA BETA
14 FUND; IS THAT CORRECT?

15 A. YES.

16 Q. OKAY. AND YOU WOULD HAVE OF COURSE READ
17 EVERYTHING IN EVERY DOCUMENT THAT WAS GIVEN TO YOU
18 BEFORE YOU MADE YOUR INVESTMENT, RIGHT?

19 A. YES.

20 Q. OKAY. AND YOU WOULD HAVE DONE THAT CAREFULLY?

21 A. YES.

22 Q. OKAY. AND THAT WOULD BE TRUE AS TO ANY
23 DOCUMENTS THAT YOU RECEIVED THAT RELATED TO THE
24 FIRESIDE LS FUND; IS THAT CORRECT?

25 A. YES.

1 Q. THEN LET ME DIRECT YOUR ATTENTION TO PAGE 17
2 OF GOVERNMENT'S EXHIBIT 12 IF I MAY, SIR. AND
3 ACTUALLY THERE'S A POST IT BY IT SO IT MIGHT BE A
4 LITTLE EASIER.

5 I WOULD LIKE TO DIRECT YOUR ATTENTION
6 AGAIN, READ TO YOURSELF BECAUSE THIS DOCUMENT HAS
7 NOT BEEN ADMITTED INTO EVIDENCE YET. THE SECOND
8 FULL PARAGRAPH OF PAGE 17 OF GOVERNMENT'S
9 EXHIBIT 12.

10 A. I HAVE READ THAT. IT'S THE SAME AS THE
11 PREVIOUS ONE.

12 Q. AGAIN, I'M NOT ENTITLED TO ASK YOU NOR DO I
13 WANT TO ASK YOU THE SUBSTANTIVE WHAT THE WORDS ARE,
14 I JUST WANT TO ASK YOU DOES THAT REFRESH YOUR
15 RECOLLECTION ONE WAY OR THE OTHER WHETHER OR NOT
16 YOU HAD AN UNDERSTANDING AS TO ANY CONDITIONS THAT
17 WERE -- THAT WOULD BE APPLICABLE TO WHETHER OR NOT
18 YOU CAN GET YOUR REDEMPTION AT THE TIME THAT YOU
19 ASKED FOR IT?

20 A. NO, IT DID NOT REFRESH MY MEMORY.

21 Q. OKAY. THEN DIRECTING YOUR ATTENTION TO PAGE
22 28 OF EXHIBIT, GOVERNMENT'S EXHIBIT 12; DO YOU SEE
23 THAT, SIR?

24 A. YES.

25 Q. DIRECTING YOUR ATTENTION TO, I THINK IT'S THE

1 THIRD PARAGRAPH FROM THE BOTTOM. AGAIN, JUST READ
2 THAT TO YOURSELF. DO YOU SEE THE THIRD PARAGRAPH
3 ON THE BOTTOM?

4 MR. LUCEY: YOUR HONOR, I THINK JUST TO
5 CLARIFICATION/OBJECTION. I THINK MR. FONG NEEDS TO
6 POSE A QUESTION TO THE WITNESS FIRST THEN SEE IF IT
7 REFRESHES HIS RECOLLECTION. I'M NOT CLEAR WHAT THE
8 QUESTION THAT'S POSED RIGHT NOW IS PENDING.

9 THE COURT: I DON'T KNOW WHAT HE'S
10 LOOKING AT SPECIFICALLY SO IT'S KIND OF HARD TO
11 ANSWER THAT BUT I THINK THAT'S A VALID POINT.

12 IF YOU WANT TO ASK HIM ABOUT IT --

13 MR. FONG: I'M SORRY, YOUR HONOR.

14 IF I DIDN'T MAKE IT CLEAR, ALL THESE
15 QUESTIONS ARE TO SEE IF THE DOCUMENT AND THE
16 VARIOUS PROVISIONS WILL REFRESH MR. LIN'S
17 RECOLLECTION AS TO WHETHER OR NOT THERE ARE ANY
18 CONDITIONS OR TERMS AS TO HIS RIGHT OF REDEMPTION
19 AND I'M SORRY IF I DIDN'T MAKE THAT CLEAR.

20 THE COURT: OKAY. THAT'S FINE.

21 MR. FONG: I'M SORRY, MR. LIN.

22 Q. IF I COULD DIRECT YOUR ATTENTION TO PAGE 28 OF
23 GOVERNMENT'S EXHIBIT 12, THE THIRD PARAGRAPH FROM
24 THE BOTTOM; DO YOU SEE THAT FIRST, SIR?

25 A. YES.

1 Q. HAVE YOU HAD A CHANCE TO LOOK, TO READ THAT
2 PARAGRAPH TO YOURSELF?

3 A. YES, I'M READING IT, JUST READ IT NOW.

4 Q. PLEASE LET ME KNOW AT YOUR CONVENIENCE WHEN
5 YOU ARE DONE.

6 THE COURT: WHEN YOU ARE FINISHED WITH
7 THIS WE WILL TAKE A BREAK.

8 THE WITNESS: I'M DONE.

9 BY MR. FONG:

10 Q. AND I WILL ASK YOU THE SAME QUESTION I ASKED
11 YOU WITH THE OTHER PREVIOUS PAGES.

12 READING THAT TO YOURSELF, DOES THAT
13 PARAGRAPH, THE THIRD PARAGRAPH FROM THE BOTTOM ON
14 PAGE 28 OF GOVERNMENT'S EXHIBIT 12, DOES THAT
15 REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT
16 THERE WERE CONDITIONS CONCERNING WHEN YOU CAN
17 REDEEM YOUR INVESTMENT FROM YOUR -- FROM THE
18 FIRESIDE LS FUND?

19 A. NO.

20 THE COURT: OKAY. WE WILL BE IN RECESS
21 UNTIL TOMORROW MORNING AT 8:30. HAVE A GOOD REST
22 OF THE DAY. AND PLEASE REMEMBER THE INSTRUCTION
23 NOT TO TALK ABOUT THE CASE WITH ANYBODY AND SEE YOU
24 TOMORROW.

25 LEAVE THE NOTEBOOKS IN THE JURY ROOM IF

1 YOU WOULD, PLEASE. THEY WILL BE SAFE THERE AND NOT
2 LOOKED AT BY ANYONE.

3 (WHEREUPON, THE FOLLOWING PROCEEDINGS
4 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

5 THE COURT: MR. LIN, YOU MAY STEP DOWN.

6 THE WITNESS: OKAY.

7 THE COURT: WOULD YOU GET THAT DOOR.

8 I JUST WANTED TO CHECK, THERE WAS ONE
9 ISSUE ABOUT A DOCUMENT THAT I SAID I WOULD TAKE UP
10 OUTSIDE THE PRESENCE OF THE JURY. I DON'T FINISH
11 IT'S SOMETHING THAT CONCERNS YOU OR NOT MR. FONG

12 MR. FONG: I APOLOGIZE, YOUR HONOR.

13 MR. LUCEY: 18.

14 MR. FONG: 18.

15 MR. FAZIOLI: IT'S THE NATIONAL
16 UNIVERSITY OF SINGAPORE.

17 MR. FONG: IT DOESN'T CONCERN ME. I'M
18 NOT CONCERNED ABOUT IT, YOUR HONOR.

19 THE COURT: ALL RIGHT. SEE YOU TOMORROW.

20 MR. FONG: THANK YOU, YOUR HONOR.

21 MR. LUCEY: THANK YOU, YOUR HONOR.

22 THE COURT: WHAT'S YOUR TIME ESTIMATE
23 WITH MR. LIN?

24 MR. FONG: IT WILL BE MORE THAN AN HOUR.
25 I DON'T KNOW IF IT'S GOING TO BE MORE THAN TWO

1 HOURS.

2 THE COURT: OKAY. THEN WHO IS NEXT?

3 MR. LUCEY: WE HAVE TO CHECK. WE HAD
4 THOUGHT MS. DOONG WOULD GO NEXT BUT THERE MAY BE
5 SCHEDULING ISSUES WITH OTHER PEOPLE COMING OUT OF
6 TOWN NOW, SO WE WILL NEED TO LOOK AT OUR ROSTER OF
7 FOLKS.

8 WE CAN GET BACK TO MR. FONG TONIGHT. IT
9 WILL STILL BE MS. DOONG BUT WE HAVE PEOPLE COMING
10 FROM THE EAST COAST WHO WE NOW HAVE TO FIT IN
11 TOMORROW AS WELL.

12 THE COURT: ALL RIGHT.

13 MR. FONG: THANK YOU.

14 (WHEREUPON, THE PROCEEDINGS IN THIS
15 MATTER WERE CONCLUDED.)
16
17
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25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/s/ _____
SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 6/11/12